

1 UNITED STATES DISTRICT COURT
 2 EASTERN DISTRICT OF PENNSYLVANIA (PHILADELPHIA)

3 UNITED STATES OF AMERICA, :Case No. 2:23-cr-00215-KBH-3
 4 Plaintiff, :
 5 v :
 6 CHIHEAN JONES, :
 Defendant. :Philadelphia, Pennsylvania
 :July 9, 2024 at 10:10 a.m.

7

8 TRANSCRIPT OF MOTIONS HEARING
 9 BEFORE THE HONORABLE KELLEY B. HODGE
 10 UNITED STATES DISTRICT COURT JUDGE

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 14 AMERICA:

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1 (The hearing commenced at 10:10 a.m.)

2 COURT CLERK: Today on session the Honorable
3 Kelly B. Hodge presiding in the matter or United State V
4 Chihean Jones, criminal action number 23-215.

5 THE COURT: Good morning, good morning,
6 everybody.

7 MS. McCOOL: Good morning, Your Honor.

8 MR. PARISI: Good morning, Your Honor.

9 THE COURT: You all may be seated.

10 COURT CLERK: Your Honor, we're just getting Mr.
11 Tauber, he stepped outside for a second.

12 THE COURT: That's fine. Good morning, Counsel.

13 MR. TAUBER: Good morning, Your Honor.

14 THE COURT: Everyone, we're here this morning on
15 a number of motions that have been filed, this is the
16 United States government versus Mr. Chihean Jones. Mr.
17 Jones, good morning, good to see you, Sir.

18 MR. JONES: Good morning.

19 THE COURT: On criminal number 2321503, I am
20 aware of, obviously, and prepared to hear from counsel on
21 the motions that have been filed. I want to go through
22 each of them because, as I said, we have a number of them.

23 Some of them were filed by Mr. Jones pro se
24 prior to Ms. Cinquanto subsequently filing them as I
25 recall our previous appearance, me obviously inviting her

1 to do so after meeting and conferring with Mr. Jones in
2 regards to those specific motions.

3 But as I said, I believe we have some that are
4 duplicative, so I want to try to take care of those things
5 as well today. But before we begin, I would ask for
6 everyone that has presented themselves, Counsel and those
7 who are here alongside counsel to introduce themselves and
8 state their name for the record. So if the government,
9 Mr. Parisi, if you'll begin.

10 MR. PARISI: Good morning, Your Honor,
11 Christopher Parisi on behalf of the government.

12 MS. McCOOL: And good morning, Your Honor,
13 Amanda McCool also on behalf of the government and seated
14 to my left is Special Agent Skyler Baron from A.T.F.

15 MR. BARON: Good morning, Your Honor.

16 THE COURT: Good morning.

17 MS. CINQUANTO: Good morning, Your Honor,
18 Caroline Cinquanto on behalf of Mr. Jones.

19 MR. TAUBER: And Alan Tauber on behalf of the
20 Mr. Jones as well, good morning, Your Honor.

21 THE COURT: Thank you, good morning. At this
22 point in time, I'm going to go down the list of the
23 motions that I have and then I will invite counsel to
24 present to me the order within which they wish to address
25 each of these specific motions.

1 And if there is anything that I need to take
2 care of administratively before we begin taking evidence
3 and me hearing any argument on the motions, then we can
4 take care of that in advance of moving forward with the
5 substance of the motions themselves.

6 I have filed E.C.F. number 134, which is the
7 Defendant's motion to sever count one of the indictment
8 from counts three, four, and five.

9 I have also before me E.C.F. number 134, which
10 is titled Defendant's motion for an evidentiary hearing to
11 determine the lawfulness of the Defendant's search and
12 seizure, I have that parenthetically identified as
13 Defendant's motion to suppress, and that's regarding the
14 August 22nd, 2022 search and seizure.

15 MS. CINQUANTO: Yes, Your Honor

16 THE COURT: I have as E.C.F. number 141, the
17 Defendant's pro se motion regarding reproduction, copy and
18 inspection of the grand jury list. I have E.C.F. number
19 142, which is Defendant's pro se motion to dismiss the
20 indictment, motion to dismiss the case.

21 E.C.F. number 143, which is Defendant's motion
22 for a hearing, evidentiary hearing, to determine the
23 admissibility of the Defendant's post-arrest statement,
24 also parenthetically identified as a motion to suppress.

25 E.C.F. 155, which is Defendant's pro se motion

1 and that's for grand jury transcripts. E.C.F. 156, which
2 is the final motion that I have, which is the Defendant's
3 motion to inspect grand jury information, which from the
4 Court's perspective I see as being filed by your counsel,
5 Mr. Jones.

6 In light of and following discussions with you
7 on your pro se motions that you have filed that I've
8 identified as E.C.F. 155, E.C.F. 142 -- correction, E.C.F.
9 141, and also, E.C.F. 142.

10 So with that I would like to hear from the
11 defense on its position in moving forward on these motions
12 and then also hear from the government as to how you would
13 like to address these today.

14 MS. CINQUANTO: Yes, Your Honor. Your Honor, I
15 believe we could take care of E.C.F. 156, which is the
16 Defendant's request for grand jury information that was
17 filed by his counsel.

18 I think in light of that motion, we could
19 dismiss E.C.F. 141 and 142 as moot because it was -- the
20 issue will be dealt with in one five six.

21 THE COURT: Okay.

22 MS. CINQUANTO: I'm sorry. One -- one four one,
23 one four two and one five five, Your Honor, I think
24 they're all asking essentially for the same thing, which
25 is --

1 THE COURT: That is correct.

2 MS. CINQUANTO: -- the grand jury information.
3 And Your Honor, where one five five may have been asking
4 for grand jury transcripts, we understand that we are not
5 entitled to those transcripts until shortly before trial
6 because that would be considered Jencks material.

7 But I do think they can be dismissed as moot and
8 we can proceed on one five six. And Your Honor, my
9 suggestion would be that we take that issue first, because
10 I think that can be readily disposed of, based upon
11 conversations that I've had with the government.

12 THE COURT: Okay.

13 MS. CINQUANTO: The second motion, Your Honor we
14 should argue, I believe in -- in this order would be the
15 motion to sever, which would be E.C.F. 134 because that's
16 just legal argument.

17 THE COURT: Uh-huh.

18 MS. CINQUANTO: And then, Your Honor, there's
19 the two motions to, as Your Honor has styled them
20 correctly, one three five and one four three. Your Honor,
21 my understanding was -- is we were going to take testimony
22 on that today.

23 My preference, Your Honor, would be to take the
24 testimony, order the transcript, and give Your Honor
25 supplemental briefing on that issue because I believe that

1 information that comes out may or may not be indicative of
2 -- of -- may not be dispositive of the issue.

3 And I would appreciate the opportunity to
4 research additional information that might be provided at
5 the hearing. So that would be my preference, Your Honor.

6 THE COURT: Okay. Thank you very much, Ms.
7 Cinquanto. I will address one five six, which -- well
8 actually, based on one five six E.C.F. 141, 142 and 155 as
9 you identify as moot, and I will dismiss those as moot.

10 Presumptively, there is obviously no argument
11 from the government on my dismissal, correct?

12 MR. PARISI: None, Your Honor.

13 THE COURT: Okay. So those will be dismissed.
14 So that will be noted and -- and obviously taken care of
15 on the record. So we are looking at one five six, one
16 three four and one three five and one four three and we
17 will take them in that order unless, and I'd like to hear
18 from Mr. Parisi, insofar as the presentation of each of
19 those particular matters in the order that Ms. Cinquanto
20 has suggested.

21 And any specific comments or opposing argument,
22 insofar as the receipt of testimony today and the
23 evidence, the ordering of transcripts and then the
24 permissive allowance of supplemental briefing regarding
25 one three five and one four three.

1 MR. PARISI: Your Honor, I have no preference as
2 to the order, what Ms. Cinquanto suggested is -- is fine
3 with the government. I don't believe supplemental
4 briefing will be necessary, but we can certainly address
5 that at the conclusion or if Ms. Cinquanto feels strongly
6 about it.

7 I'm prepared to argue all the motions today and
8 whether the Court wants to hear a fulsome argument or not,
9 I'll at least give you some cliff notes versions for each
10 of those motions, but we're ready to proceed on everything
11 in that order.

12 THE COURT: Okay. Thank you very much. Then
13 the order that you have suggested and recommended, Ms.
14 Cinquanto is acceptable to the Court. So you may proceed
15 in that fashion.

16 MS. CINQUANTO: Thank you, Your Honor.

17 Your Honor the government and I had a productive
18 conversation yesterday about E.C.F. 156. I don't want to
19 speak for the government and I would ask them to weigh in,
20 but we believe -- I -- I -- I believe it's been agreed
21 that we are entitled to the underlying information
22 regarding the composition of the grand jury.

23 It was just a question about who I am to make
24 that motion to, I had read the -- the clerk's office rules
25 and regulations regarding that and there was some -- this

1 -- we -- we -- the government and I had different ideas
2 about who we were supposed to make this application to, to
3 get the information.

4 We believe -- we both agree we're entitled to
5 and it was a question of whether or not I filed it in the
6 right forum. I went down to the clerk's office today and
7 I spoke with Kevin Eibel, E-I-B-E-L, and he informed me
8 that his belief is -- is that I did file it with the
9 correct forum, which would be Your Honor.

10 So what -- what the rules say is that the motion
11 should be filed with the chief judge, an assigned judge,
12 or a judge that's designated by the chief judge. So his
13 position is -- is that this is the correct form for Your
14 Honor to make that order.

15 So with that, Your Honor, I would ask that Your
16 Honor sign the order ordering the release of that
17 information to defense counsel so that we can inspect it.
18 And then based upon what information we've received, we
19 may or may not have a motion to dismiss because the
20 composition of this grand jury was not fairly comprised.

21 THE COURT: Thank you, Ms. Cinquanto, and the
22 question I have for you before I will allow Mr. Parisi to
23 respond and/or clarify on the understanding and agreement
24 that you and he discussed yesterday. The rule that you
25 indicated you spoke with Kevin Eibel at the -- in the

1 clerk's office about.

2 You said filing with the chief judge, the
3 assigned judge, or some other -- a designated other --

4 MS. CINQUANTO: Correct Your Honor.

5 THE COURT: -- I guess judge. Is that an or --
6 or an and, so would it have to be filed with the chief
7 judge and the assigned judge, or it's an or is the way I
8 was hearing it?

9 MS. CINQUANTO: I -- I believe it's an or --

10 THE COURT: Okay.

11 MS. CINQUANTO: Your Honor, I can clarify that
12 after the hearing today, if Your Honor would -- would --
13 would like, but I -- I believe it's an or, I don't believe
14 we have to file it with the three different judges in
15 order to -- to get the information.

16 THE COURT: Okay.

17 MS. CINQUANTO: But that's my understanding, but
18 I can't say that for sure, Your Honor, I don't have the
19 rule in front of me.

20 THE COURT: Okay. That is -- that is fine,
21 which -- whichever method is obviously appropriate I'm
22 presuming it is an or as well and that it doesn't need to
23 be filed with three different officers or judges of the
24 Court.

25 And that way you can go ahead and -- and do so

1 and I will look to respond to it and -- and make my ruling
2 on it accordingly. Mr. Parisi, the representation of Ms.
3 Cinquanto and so far as E.C.F. 156 is concerned, can you
4 provide commentary as to whether or not the government has
5 any differing position or is, concurs with what Ms.
6 Cinquanto has stated?

7 MR. PARISI: Your Honor, there's a little more
8 nuance to it.

9 THE COURT: Uh-huh.

10 MR. PARISI: What -- what I agree to is that, as
11 long as the Defendant follows the district court plan and
12 the requirements in that plan which was publicly available
13 and we both attached it, then she is entitled to whatever
14 the plan provides.

15 I did not agree that she's entitled to what she
16 requested which was the entire grand jury file, I don't
17 know what that means. But looking through the district
18 court plan, there are basically three categories of
19 material.

20 The first is the names of grand jurors, I
21 presume that those are included in the master file
22 somewhere. And what the district court plan says, and I'm
23 at pages twelve to thirteen, you know, and it's numbered
24 paragraph nine C as in Charlie, is that names may only be
25 disclosed upon order of the Court and it specifies the

1 judge who impaneled the grand jury.

2 The grand jury that indicted the Defendant in
3 this case was supervised and impaneled by Judge Diamond.
4 So I believe if the Defendant wants grand juror names, she
5 must make application to Judge Diamond and I don't believe
6 she's done that.

7 The next category of information is past grand
8 jury wheel information and that is at number paragraph
9 eleven C as in Charlie pages fourteen to fifteen of the
10 district court plan. And that is fairly clear as I read
11 it, that that's only upon order of the chief judge or his
12 designee.

13 I don't know if there are designated other
14 judges who have that authority, but I don't believe
15 counsel has made any application to either Judge Sanchez
16 or Judge Goldberg now for past information, which was part
17 of her request.

18 And then there's this -- this additional
19 category of papers and -- papers and records that are
20 available for public inspection for the purpose of
21 determining the validity of the selection of any jury,
22 that seems to be what Ms. Cinquanto is looking for. that's
23 numbered paragraph eleven A page fourteen of the plan.

24 The plan says publicly available, I don't know
25 what that means, whether that means Judge Diamond, or Your

1 Honor, has to nudge the clerk of courts whether it means
2 the clerk of courts should have that ready. That's an
3 open question and I can't answer it, but I am not agreeing
4 that she gets the whole file. I'm agreeing that if she
5 follows the plan she gets what the plan permits.

6 As I've mentioned before, there are severe
7 security concerns in this case, they are ongoing, and
8 every time we talk to somebody, it seems like they're
9 being threatened. And I'm deeply concerned that this is
10 just an attempt of the Defendants to find out who was on
11 the grand jury, or who testified before the grand jury.

12 And I -- I note that these all started from a
13 Defendant's pro se filings, and I mention that because
14 subsequent to Ms. Cinquanto sort of polishing up the
15 Defendant's filings and resubmitting them, I received an
16 identical filing from a Defendant in another case.

17 That was Kevin Johnson docketed at 24-187, and
18 that's before Judge Baylson, a verbatim pro se filing.
19 Which tells me that this is just something going around
20 the F.D.C. and I don't believe it's something that this
21 court should really take all that seriously.

22 But to the extent Ms. Cinquanto wants this
23 information and complies with the plan, I agree she can --
24 she can get it in that -- that respect. But I'm not
25 certain that Your Honor is the appropriate forum to sign

1 this order.

2 It seems to me that it's -- depending on the
3 category, either Judge Diamond who supervises this grand
4 jury or Judge Goldberg is the chief judge.

5 MS. CINQUANTO: Your Honor, may I respond
6 briefly? Your Honor, I --

7 THE COURT: Yes.

8 MS. CINQUANTO: -- I mean, unless -- I'm happy
9 to re-file this motion with Judge Goldberg, happy to do
10 it. The Supreme -- the Supreme Court of the United States
11 says that my client is entitled to this information,
12 there's no question about that.

13 To deny him the information that he is
14 requesting would be unconstitutional, he's entitled to it.
15 Whether or not other Defendants at the F.D.C. are asking
16 for it is of no matter. Now, the -- I went to the clerk's
17 office, I explained the situation, I told them what I
18 needed and they said that Your Honor was the appropriate
19 forum.

20 It -- I will re-file in any forum that Your
21 Honor wishes if it -- if it would -- if it would make Your
22 Honor feel - or the government feel more comfortable, I'll
23 just re-file this in front of Judge Goldberg, not a
24 problem.

25 In addition, Your Honor, we're only asking --

1 we're not asking for the names of the grand jurors, and I
2 will make that clear in -- in whatever order that we
3 submit to, whatever forum. We don't want the names, we
4 just need the compass -- the racial composition and the --
5 the demographic information of these folks.

6 So we don't need to know who they are, or any
7 identifying information, I just want to know the racial
8 composition, the -- the age ranges of these particular
9 jurors, and everything that the Supreme Court says that
10 needs to be in place in order for there to be a valid
11 composition of a grand jury.

12 So I'm just following the direction of the clerk
13 of court, he said you were the appropriate forum. I don't
14 know what else I can do to clarify that if we want to --
15 we can call him, we could, or I could just -- if it just
16 makes everything easier, I could file this in front of
17 Judge Goldberg. But that's --

18 THE COURT: I think -- I --

19 MS. CINQUANTO: -- there -- there's no question
20 that he's entitled to this information and to deny him
21 that information would -- would -- would ultimately end up
22 in a reversal of this case, I mean, it's -- it's black
23 letter law, he's entitled to this information.

24 THE COURT: And I think you -- and thank you,
25 Ms. Cinquanto, I think that you and obviously Mr. Parisi,

1 you led with that at least in saying that you discussed
2 things and -- and have agreed and -- and agreed to what
3 can and should be provided.

4 So I -- I don't want to -- I'm not entertaining
5 at this point a -- you are not to receive what you are
6 entitled under the Constitution to receive for your
7 client. I think what is necessary is to obviously flush
8 out the details and the specificity and whether it's
9 pursuant to, as Mr. Parisi says, the plan or in essence,
10 how you have just summarized it, which says we're not
11 looking for names.

12 We're looking for racial composition and
13 demographic data --

14 MS. CINQUANTO: Right.

15 THE COURT: -- information, so that, obviously,
16 Mr. Parisi presents valid concerns on safety and those
17 considerations and you are stating that you are not
18 seeking anything that would reveal that type of
19 information.

20 Secondary to that you have also stated that you
21 just want to know where to file in order to go ahead and
22 receive said information. And Mr. Parisi has presented
23 based upon what is identified as the plan and what's been
24 filed, as to it needs to go to the chief judge or, I
25 believe it indicates a designee of the chief judge.

1 And in turn, also, I believe that if Judge
2 Diamond was the one that actually oversaw the grand jury
3 in this case, that it would be potentially Judge Diamond.

4 The Court is willing to make that determination
5 and direct you as to who it needs to go to, so you don't
6 have to, in essence, misfile it or be concerned that it is
7 actually being requested from the wrong entity and it's in
8 any way adverse or a penalty towards your client that
9 would not benefit you, your client, nor would it benefit
10 the government.

11 So I'm not going to let that procedural kind of
12 question mark be an impediment to the case moving forward
13 and the request being reviewed. And if appropriately
14 submitted with appropriate law to support the basis for it
15 which -- again, you led with the agreement, then we will
16 go ahead and get that done.

17 So the Court will go ahead and make a
18 determination as to who it needs to be directed to and
19 inform you as to who it needs to be filed with. And then
20 once I go ahead and give that direction to both you and --
21 and the government, then it can be filed at that place or
22 with that entity, if it is myself, if it is Chief Judge
23 Goldberg, if it is Judge Diamond, depending on what it is,
24 it may be more than one of us, I'm not certain, but we'll
25 make that determination and let you know.

1 MS. CINQUANTO: I would appreciate that, Your
2 Honor, thank you so much.

3 THE COURT: Okay. You're welcome. So now that
4 we've completed our discussion on E.C.F. 156, moving now
5 to the legal argument that you indicated you wanted to
6 make regarding E.C.F. 134, I am ready to hear argument on
7 that motion.

8 That's the motion for a joinder and/or severance
9 of count one of the indictment.

10 MS. CINQUANTO: Yes, Your Honor. Your Honor,
11 there's two Federal Rules of Criminal Procedure which are
12 at play here, there's Rule of Criminal Procedure Eight
13 which governs the joinder of offenses, and there is
14 Federal Rule of Criminal Procedure Fourteen which talks
15 about severance.

16 In my motion to Your Honor, I had conceded that
17 the cases were properly joined because I believed that the
18 government's theory was that they were similar in nature
19 and therefore they were properly joined.

20 The government's response in their motion was
21 that, in fact, I was incorrect in that, and that they are
22 joining the -- the counts because they are a continuing
23 course of conduct or a common scheme or plan.

24 And based upon that, Your Honor, I am going to
25 ask -- going to ask the Court to make two findings today.

1 One, we'll make a finding that they were not properly
2 joined upon that theory, or, in the alternative, if Your
3 Honor does believe that they were properly joined under
4 Rule 8, then, they should be severed under Rule 14(a).

5 The government's position is that this was, as
6 they said, a continuing course of conduct or a common plan
7 and scheme, and that's why the cases were joined. But
8 Your Honor, they are not, there is in fact four -- well
9 there's four robberies that are charged in this
10 indictment.

11 But there are actually five robberies that are
12 relevant for the discussion in this case. The first
13 robbery occurred -- and this is important for Your Honor
14 to understand, sort of, the players, because I think this
15 really goes into proper joinder and then severance, if
16 Your Honor is going to address that.

17 The -- the first robbery occurred on August 22nd
18 of -- of 2022, that robbery involved, allegedly, three
19 people. It involved the Defendant, a Mr. Vincent, and a
20 Mr. Curtis. That robbery took place at a cell phone store
21 at the Olney Plaza.

22 In that robbery, two men went into the store,
23 that would be Mr. Vincent and Mr. Curtis. There was no
24 weapon that was used during that robbery, that's very
25 important, there was no weapon that was used.

1 The men successfully complete the robbery and
2 then they drive away in a vehicle, or they -- they -- they
3 leave the scene and they end up being arrested in a
4 vehicle which was driven by my client.

5 My client maintains and told the police that he
6 was a hack driver and he was basically flagged down and
7 asked to drive Mr. Vincent and Mr. Curtis away from the
8 scene. Mr. Vincent and Mr. Curtis were both found in the
9 backseat of the vehicle, as were the cell phones in
10 question, that were stolen.

11 There was no weapon that was recovered from the
12 car, and again, that's very important. After that, Your
13 Honor, five months later, almost six months later there is
14 another robbery that occurs on January 6th.

15 And that robbery involves a Mr. Crafter and --
16 and I believe it was a mister -- Mr. Vincent, I believe.
17 That occurs at another cell phone store, this is five
18 months later, it's a cell phone store. My client is not
19 alleged to have been involved in that robbery at all.

20 January 15th, there's another robbery of a
21 Verizon store, a cell phone store and that involves Mr.
22 Crafter, a mister -- Mr. Brown, a Mr. Sander -- a Ms.
23 Sanders, and a Mr. Vincent.

24 Again, my client is not involved in the robbery
25 of that store, that was at -- that was the cell phone

1 store again. Then, on the 16th, the day after that, Your
2 Honor, there's another robbery of a cell phone.

3 Now, these are all in the indictment. And that
4 is Mr. Crafter, Mr. Vincent, Ms. Sanders, and Mr. Brown,
5 same people who were involved in the 15th, the day of the
6 15th robbery. And again, Your Honor, that was the -- that
7 was a robbery of a cell phone store.

8 Then, we go to January 17th, in January 17th,
9 there's really no way to say it, it's just not like the
10 others. It's a robbery of a gas station, and it -- it
11 allegedly involves Mr. Crafter, Mr. Vincent, and my
12 client.

13 And then Your Honor, when it was not charged,
14 which is very interesting in this case is the day after
15 that, Mr. Vincent, Mr. Crafter, Mr. Brown, and Ms. Sanders
16 commit another robbery. And then, after that, one of
17 those folks was arrested, they -- they -- they made a
18 statement, and that's how sort of the dominoes fell here.

19 So the point is, Your Honor, is that this is not
20 a continuing course of conduct or a common planned scheme,
21 we have two robberies where Mr. Jones is alleged to have
22 been involved, that would have been a robbery that on --
23 on August 22nd of 2022, and then again of a gas station on
24 January 17th of 2023, almost five months later.

25 He's not involved or alleged to have been

1 involved in the January 15th, January 16th, or January
2 18th robbery. In the January 17th robbery, Your Honor,
3 everyone was wearing masks, so there's no way to identify
4 who was actually in the store at that time.

5 So we have a situation where the robbery, where
6 mister -- there -- there's no way that the government can
7 say this is a continuing course and -- and -- and scheme
8 because we have the delay in the -- the time when my
9 client was involved.

10 We have a different type of robbery, one, you
11 know, which is a cell phone versus a gas station. And we
12 also have the fact that he is not involved in the prior
13 two robberies. So you're at -- at -- the prior two
14 robberies and then the -- the -- the last robbery.

15 So Your Honor, this is not a continuing course
16 of conduct, this is not a common plan scheme, and
17 therefore, under Rule 8 this -- the -- the August 22nd of
18 2022 robbery should not have been included.

19 Now, Your Honor, if we move from there and Your
20 Honor finds that they were properly joined, well then I'm
21 asking for severance under Rule 14. And the reason why
22 I'm asking for severance under Rule 14 and that is the
23 government's -- I'm sorry, the defense's burden.

24 In Rule 14(a), states that if the joinder of
25 offenses in an indictment appears to prejudice a

1 Defendant, the Court may order separate trials of counts.
2 The defense is required to show that the denial of
3 severance would lead to clear and substantial prejudice
4 resulting in a manifest -- manifestly unfair trial.

5 And the Courts have found that there's three
6 types of prejudice that can emerge from a situation like
7 this. I'm going to focus on two of them, the one I'm
8 going to focus on is that some of the prejudice that could
9 occur in a situation like this, is one, that proof that a
10 Defendant is guilty of one offense may be used to convict
11 him of a second offense, even though such information
12 would be inadmissible if there was a separate trial for a
13 second offense.

14 What that basically is saying, Your Honor, is
15 that the government has included the August 22nd, 2022
16 robbery and the January 17th, 2023 robbery. And if those
17 two robberies were standing alone under Rule 404 -- 404,
18 those -- those trials would never have been tried
19 together.

20 Those cases would have been separate because of
21 the distance in time and the distance in -- in the people
22 who were involved, and the method, and the mode, and the
23 modus operandi here. So Your Honor, the point is -- is
24 that if standing alone, the -- without these, you know,
25 the 15th robbery, the 16th robbery, the -- the government

1 is trying to string these robberies together in order to
2 bring in the August 22nd of 2022 robbery.

3 The -- the whole purpose of joining offenses is
4 so that -- for judicial economy, and in this case there is
5 no judicial economy if there's two separate trials. We
6 have different witnesses from the cell phone store from
7 August 22nd of 2022, from the witnesses that would be at
8 the gas station.

9 We have different offers, we have different
10 evidence that would be presented. If Your Honor was to
11 separate those trials, the only additional time that this
12 court would incur would be the selection of a jury in that
13 case.

14 Everything else would be essentially the same
15 amount of time in order to prove that robbery. They're
16 going to have to put the same evidence on in a trial
17 before you, even if those cases were consolidated.

18 So it -- there's not a -- there's not a lot of
19 overlapping of evidence, this is what everyone is -- what
20 -- what folks are looking for, or what the Courts are
21 looking for when they're trying to determine judicial
22 economy.

23 In addition, Your Honor, and most importantly,
24 courts have found that if a Defendant wants to testify in
25 -- regarding one count, but doesn't want to testify in the

1 other count, then that is another reason why the cases
2 should be separated.

3 Now, in this case, Your Honor, we're separate --
4 excuse me.

5 In this case, Your Honor, Mr. Jones wishes to
6 testify in the August 22nd, 2022 robbery, he was a hack
7 driver during that time and he's prepared to testify that
8 he was only a hack driver and that's how these folks ended
9 up in the back of his vehicle.

10 On the other hand, Your Honor, and that is a
11 very compelling reason for him, he's going to testify, he
12 intends to testify and he will testify to that. But he
13 does not wish to testify regarding the January 17th, '23
14 robbery.

15 In the January -- so -- the important piece here
16 is that Mr. Jones on August 22nd of 2022, admits that he
17 was in the area, was in the area, and is not saying he
18 wasn't in the area. He -- but he was in the area because
19 he was a hack driver, which is exactly what he told the
20 police when he gave a statement thereafter.

21 On the other hand the January 17th, 2023
22 robbery, Mr. Jones maintains that he was not there, that
23 he was in fact having a romantic rendezvous with his
24 girlfriend at the time out on the streets. What's
25 important is that his girlfriend has also been charged in

1 this case.

2 So Mr. Jones will be unable to call that witness
3 as a potential alibi witness because she's got Fifth
4 Amendment rights to remain silent. So in that case, Your
5 Honor, Mr. Jones will choose to remain silent because he
6 cannot call his girlfriend in order to corroborate his
7 alibi, for lack of a better term.

8 But in -- in the first case, Your Honor, Mr.
9 Jones absolutely will want to testify and explain why
10 those folks were in his car and why that car, you know,
11 why they were, you know, the -- the situation around that.

12 So Your Honor, the fact that Mr. Jones will be
13 limited in his ability to testify, because obviously he
14 can't take the stand and talk about one and say, hey, I
15 was a hack driver, I didn't do it -- I didn't do it.

16 And then not say a word about the 17th robbery,
17 because a jury will just -- that would be extremely
18 prejudicial. So Your Honor, the -- the best course of
19 action in this case is to sever that count -- the first
20 count, the August 22nd, 2022 count sever it out.

21 Your Honor will only incur an additional day,
22 day and a half with the selection of a jury and perhaps
23 the -- we can't even say the jury deliberations because
24 the deliberate -- jury deliberations are going to --
25 they're going to have to deliberate each of these counts

1 separately anyway.

2 Really it's just a question of selecting a jury,
3 that's really it, it's one day. And so if you take that
4 -- that concern for judicial economy and you compare it to
5 the prejudice that my client will suffer if he's not able
6 to testify about where he was and why he was there on
7 August 22nd, then, Your Honor, that is substantial
8 prejudice and we -- it would result in a manifestly unfair
9 trial. One moment, Your Honor.

10 Your Honor, that's my position. Thank you.

11 THE COURT: Thank you, Counsel. Mr. Parisi, if
12 I could hear your response?

13 MR. PARISI: Yes, Your Honor. Your Honor, I
14 want to start with that last point about the Defendant's
15 testimony, because I think it's the most easily disposed
16 of. There's nothing to stop the Defendant from taking the
17 stand and testifying about August 22nd and not being posed
18 questions about January 17th.

19 There may be strategic reasons why counsel
20 doesn't want to do that, but that's not prejudice, that's
21 not what prejudice is. I -- I suspect if that were the
22 case where the Defendant only testifies about August 22nd,
23 Your Honor would limit any cross to the direct exam,
24 that's typical.

25 I can't imagine a scenario where we would be

1 allowed to get up and -- and use this as almost an open-
2 ended deposition of the Defendant. So if the Defendant
3 wants to testify about August 22nd, he's certainly free to
4 do so.

5 But -- but a strategic decision, why he thinks
6 that may not go well for him, that is not prejudice,
7 that's not what the case law tells us. The case law tells
8 us prejudice is -- the determination was the Defendant's
9 trial rights stripped from him.

10 So let's talk about the evidence in this case,
11 we have a group of friends, and the linchpin of that
12 friendship is Keon Vincent and the Defendants who rob
13 stores for money.

14 We did not charge every robbery we know about,
15 but we know they did this going back into '22, all the way
16 up through the -- the arrest in January of '23. And the
17 way this worked is, whenever a group of them got together
18 to do a robbery, they needed a car and they needed a
19 store.

20 The Defendant came to two of those robberies, he
21 didn't come to all of them, but that's not a dispositive
22 fact. The Savage case that I quoted in my response talks
23 about that specifically. And what it says is, if I can
24 just find the quote here.

25 In essence, just because all the evidence

1 adduced is not germane to all counts against each
2 Defendant, or because certain Defendants are seemingly
3 less culpable, or because evidence is more damaging to one
4 Defendant than others, that's not prejudice, that's just
5 how trials work.

6 The way we would prove our case, Your Honor, is
7 to show that on August 22nd the Defendant drove Keon
8 Vincent and Keontae Curtis in his S.U.V. to a cell phone
9 store to rob it. They then left the scene and were
10 arrested by the police together with all the stolen goods
11 in the backseat of the car.

12 The Defendant gave a false exculpatory statement
13 saying he had nothing to do with it, but his cell phone
14 shows otherwise. The Defendant said to the police that
15 day, I was nowhere near that cell phone store, his cell
16 phone shows that he was right there.

17 Fast forward to January 17th, our evidence will
18 show that once again, the Defendant drove Keon Vincent,
19 and now, Robert Crafter and Reliana Ruiz (phonetic
20 spelling) to the gas station in his same S.U.V. as the
21 August 22nd robbery to commit the robbery.

22 Importantly, before both robberies the Defendant
23 made it clear he had a gun in the car. August 22nd, Keon
24 Vincent and -- and Keontae Curtis refused to use a gun,
25 there's no gun taken into the store, but I believe there

1 was a gun in the car and the evidence will be that the
2 Defendant offered it.

3 THE COURT: Was there a gun recovered in the
4 car?

5 MR. PARISI: There was not, Your Honor.

6 THE COURT: Okay. So there was no gun on August
7 22nd, present --

8 MR. PARISI: There was no gun that the police
9 recovered, I believe there will be testimony that a gun
10 was offered.

11 THE COURT: Okay.

12 MR. PARISI: And I think that's an important
13 distinction. January 17th, the testimony will be that the
14 Defendant parked his S.U.V. across the street from the gas
15 station, they planned the robbery, the Defendant made it
16 clear he had a gun, and then they went in and did the
17 robbery before fleeing the scene.

18 Once again, the Defendant's cell phone, the same
19 cell phone that he had with him in August 22nd, shows that
20 he's at the scene of the gas station, right on the
21 property. The Defendant gives a statement to homicide
22 detectives, again, a false exculpatory saying, I was in
23 the area earlier to have sex with my girlfriend, and then
24 nowhere near the gas station.

25 Yet again, the same cell phone shows that that's

1 false, to prove his identity, to prove that he is the
2 gunman at the robbery, at the murder, we have to introduce
3 all of those pieces to tie it together, we have to show
4 that it's his S.U.V.

5 We have video of the same color S.U.V. in the
6 area of the murder before and after, we have the S.U.V.
7 stopped after August 22nd with him behind the wheel, that
8 ties him to that car at the murder. We have the cell
9 phone evidence and I suspect there will be testimony from
10 other people that will corroborate all of that as well.

11 These cases are inextricably intertwined and
12 there's no way to prove one without the other because the
13 evidence compliments one another and evidence from the
14 first count shows the murder and vice versa.

15 It shows the group of people together, it shows
16 their identities. Just --

17 THE COURT: Do you have any video evidence from
18 the scene of the January 17th, 2023 robbery murder that is
19 the Suburban that's identified as the vehicle that the
20 Defendant was apprehended in -- from August 22nd of 2022?

21 MR. PARISI: We -- we have photos of or video of
22 a Suburban that is the same color, it's -- it's not a car
23 stop so I can't see the Defendant behind the wheel. But
24 we have that same color Suburban, it's fairly distinctive
25 looking because it's an older model.

1 And it's pretty beat up in the area from
2 different stores or street cameras.

3 THE COURT: You don't have a plate number?

4 MR. PARISI: I don't believe we have a plate
5 number from that night.

6 THE COURT: Okay.

7 MR. PARISI: A few days later the police then
8 find the Defendant sitting in the same car with Reliana
9 Ruiz, and importantly, there's a -- there's a new plate on
10 it. So it's all these little pieces that come together to
11 show that the Defendant is the person at the murder.

12 Just because there's -- there's some evidence of
13 other robberies with other Defendants doesn't mean that
14 there's prejudice to this Defendant. And in fact that
15 evidence isn't going to come in, we're presenting evidence
16 on the two counts where this Defendant's charged.

17 And it's -- as counsel stated correctly, it's
18 her burden to show prejudice, the only basis for Your
19 Honor to sever a case out is if the Defendant's trial
20 right is compromised and they must show clear and
21 substantial prejudice, which they have not done.

22 The -- the key question when you examine that
23 is, can the jury compartmentalize these two separate
24 instances and -- and deliberate specifically on those
25 counts, that's the -- the Perry (phonetic spelling) case

1 from the --

2 THE COURT: Uh-huh.

3 MR. PARISI: -- Third Circuit that I cited. And
4 -- and what -- what the case law tells us is when there
5 are separate offenses, disparate times, that actually aids
6 in the jury's ability to compartmentalize. And the fact
7 that we're talking about August 22nd with a cell phone
8 store and January 17th at a gas station, that's exactly
9 what the Third Circuit and the other cases tell us.

10 That type of disparate timing helps a jury
11 compartmentalize those specific counts. Lastly, I -- I
12 suspect Your Honor will give the jury instructions,
13 there's the standard instructions that they must consider
14 each count separately.

15 And the Third Circuit also tells us that when
16 the Court gives those instructions, that's also powerful
17 evidence that the jury can and will compartmentalize the
18 evidence. So in sum, Your Honor, there's no way to prove
19 this case -- counsel's idea that this is a -- a -- a light
20 lift to prove them separately is -- is fanciful.

21 The only way to prove each of these offenses is
22 to prove them together because the evidence is
23 intertwined. They have not met their burden to show
24 prejudice and the -- the Third Circuit tells us that this
25 type of case is routinely joined, rarely severed, and in

1 fact aids the jury in compartmentalizing.

2 And I won't go through all the other cases, but
3 I cited a number where there are widely disparate crimes,
4 escapes and assaults and other things that were properly
5 joined. And I would just ask the Court to review those as
6 what I believe is of -- of -- of outer bounds -- of what's
7 permissible in this case is certainly not out there.

8 THE COURT: The question I have for you, Mr.
9 Parisi is, what you led with in terms of your start point
10 for the -- for your argument on defense's motion and what
11 Ms. Cinquanto concluded with just prior to -- to stepping
12 back and -- and concluding her argument on the motion,
13 which is, if in fact the jury is seated, that you've
14 indicated, I can very easily just instruct the jury that
15 there will only be questions presented on direct
16 examination regarding the offense that took place on
17 August the 22nd of 2022.

18 That no questions will be presented to the
19 Defendant who has an absolute right not to testify, but
20 can testify if he so chooses, and I've been told he will
21 choose to testify only as to -- let's say, robbery one,
22 which is the August robbery.

23 How do you cure any potential inferences the
24 jury may glean from not hearing from or having the
25 Defendant answer to anything that is related to the

1 January 17th, 2023 robbery?

2 There's the argument by counsel that prejudice
3 can be inferred and can be expected from the jurors if
4 they only hear about one and not the other, especially
5 when the other has a homicide attached to it.

6 So how do you -- how would you respond to that
7 and how would you suggest that the Court cure that
8 preemptively?

9 MR. PARISI: As an initial matter I'm not sure
10 it's appropriate for the Court to give an instruction up
11 front that that's going to happen. I think we first have
12 to see if the Defendant --

13 THE COURT: Correct.

14 MR. PARISI: -- decides to testify at all. I'm
15 also not sure that it would be appropriate for the Court
16 to highlight that and -- and give some sort of instruction
17 that the Defendant's only going to testify about this and
18 you can't infer otherwise, that's something I'd like to
19 look into a little more.

20 THE COURT: But you said I could -- I could
21 direct him that he's only going to be questioned on August
22 22nd --

23 MR. PARISI: What I --

24 THE COURT: -- so even though I'm not doing a,
25 let's say a preemptive curative instruction, which I would

1 not do, but saying, well, Counsel is directed that they
2 are only permitted to question the Defendant or question
3 Mr. Jones on the robbery of August 2022.

4 MR. PARISI: I -- I may have misspoke then, Your
5 Honor --

6 THE COURT: Okay.

7 MR. PARISI: -- I -- I wasn't suggesting that
8 your court should direct them at all.

9 THE COURT: Okay.

10 MR. PARISI: What I meant is if the Defendant
11 testifies about August 2022, I imagine that the government
12 would be limited to cross examination on the subjects of
13 the direct and that would obviously go beyond the scope if
14 we tried to delve into something else.

15 And that is where I think it would be
16 appropriate for the Court to make a ruling., I -- I we
17 wouldn't --

18 THE COURT: Okay.

19 MR. PARISI: -- do that, but if we stepped out
20 of line and crossed into something that was not testified
21 to on direct, I imagine there would be an objection and
22 the Court would -- would most likely sustain that as
23 beyond the scope, that is what I was referring to.

24 To the Court's bigger point, though, about how
25 do you cure a potential prejudice, there are pattern

1 instructions about what the jury must and must not do when
2 a Defendant does or does not testify.

3 And if the Defendant chooses to testify about
4 part of this and not the rest, the Court, I'm sure, will
5 give the pattern instruction about how to view a
6 Defendant's testimony and I believe that is sufficient to
7 cure any potential prejudice.

8 Now, whether defense counsel chooses or the
9 Defendant decides, that's still not a great idea because
10 I'm still worried about what the jury might be thinking.
11 That's a different question, but that's not the prejudice
12 that we're talking about here, that's a strategic decision
13 that they have to make.

14 And if -- if that's something they want to do,
15 that's fine, but they don't get to hold out this
16 hypothetical, we may have a defense strategy, as in a
17 (unintelligible) to entice Your Honor to sever out a
18 count, that's not the appropriate analysis.

19 The Third Circuit, the Supreme Court are clear
20 that prejudice has to be stripping them of their right,
21 that's them talking about how they might want to exercise
22 that right. There's no right stripped there, that's just
23 a decision they make and it's not a basis to set the count
24 out.

25 THE COURT: Do you think the jury is, or can be

1 directed or sophisticated enough to compartmentalize that
2 if they only hear about one robbery and not the other,
3 that they cannot draw any negative inference from not
4 hearing about the Defendant on the other when the
5 Defendant chooses to testify?

6 MR. PARISI: I think so, and -- and if that's --
7 if that happens then perhaps there is a -- an instruction
8 that we can come up to -- with together at a charging
9 conference that takes from the pattern and -- and maybe
10 crafts it a little bit more to the facts of that -- of
11 that scenario.

12 But, you know, I think juries get it, I think
13 they follow the instructions. The Third Circuit believes
14 juries follow instructions and -- and I -- I don't see a
15 basis to sever based on this hypothetical here.

16 THE COURT: I believe that's -- that juries do
17 follow instructions and I -- I -- I believe that they are
18 sophisticated enough to get it. But the it is the big
19 question mark --

20 MR. PARISI: Sure.

21 THE COURT: -- which is what does the it say?
22 And so in that regard and -- and where my concern is at
23 this point, is making sure that there is no undue
24 prejudice to the Defendant.

25 So I think that if there is an occasion, and I'm

1 sure there has been, that precedes this court in this
2 case, from all the cases that have been cited by you as
3 well as Ms. Cinquanto.

4 But specifically you as the government,
5 indicating that the joinder of these counts are
6 appropriate and necessary in these two separate offenses
7 states represent a common plan scheme and design and
8 should therefore remain joined that that type of
9 instruction is something that I would like to see.

10 MR. PARISI: Yes, Your Honor.

11 THE COURT: It would aid me in my deliberation
12 on the issue. I will ask you before you step back or
13 provide me any other argument, you do note in your brief.

14 And I note -- and this is for you, and I will
15 ask Ms. Cinquanto this same question and to respond to it.
16 So Ms. Cinquanto, I'd ask you to listen closely as well.

17 MS. CINQUANTO: Uh-huh.

18 THE COURT: On page five of eight of E.C.F. 140
19 paragraph beginning, the government's evidence will
20 further show that, second sentence there says, the
21 government will show that the Defendant bragged to others
22 that the gas station would yield substantially more money
23 than the previous cell phone store robberies the group
24 typically engaged in.

25 That particular statement and what the

1 government anticipates its evidence is going to show
2 presents a link between the previous -- the robbery one,
3 as I'm identifying the August robbery, and robbery two
4 which represents counts three, four, and five, the January
5 robbery.

6 Can you speak to what you anticipate being
7 presented at trial regarding this specific sentence?

8 MS. PARISI: Yes, Your Honor, I'm going to
9 choose my words --

10 THE COURT: To the extent you can.

11 MR. PARISI: Yes -- yeah. I think the Court
12 understands my concerns.

13 THE COURT: Yes.

14 MR. PARISI: There will be witness testimony
15 that the Defendant called other people that night and
16 said, I've got a score for us, it's going to be much
17 bigger than the stuff that we usually deal with, I'm --
18 I'm paraphrasing.

19 And then solicits people to participate, and
20 that's how then Reliana Ruiz, Keon Vincent, Robert Crafter
21 end up in the Defendant's car outside the gas station.

22 And as Your Honor does point out, it does tie it
23 back to the others, it's -- again, a statement of
24 knowledge, it shows his involvement in the previous
25 robberies.

1 And as I said, it's -- it's all intertwined
2 here, there's no way to tell this story about one without
3 the other. And that's a perfect example.

4 THE COURT: And Mr. Vincent, Keon Vincent is the
5 individual who is arrested and charged for the August
6 22nd, 2022 robbery as robbery one and is also arrested and
7 charged in the January 17th robbery two incident, robbery
8 homicide in January of 2023, correct?

9 MR. PARISI: Correct. Among multiple other
10 robberies, but yes, those two, he is the -- he's the link
11 between the Defendant and this group. It's the Defendant
12 and Keon Vincent that are sort of the center of this group
13 of friends who commit robberies and -- and were committing
14 robberies throughout the Philadelphia area for several
15 months.

16 THE COURT: Okay. Thank you, Mr. Parisi.

17 MS. CINQUANTO: Your Honor, I'll address that --
18 your last question first. Your Honor, the defense has no
19 information about this information that was -- that mister
20 -- that my client bragged to anybody about this being a
21 bigger score.

22 And I think that even if there is a witness
23 who's willing to testify to that, I don't -- I can't see
24 in any logical way how robbing a gas station at two
25 o'clock in the morning would yield a bigger score than

1 robbing cell phone stores of hundreds, thousands -- tens
2 of thousands of dollars worth of cell phones.

3 So -- but I don't have any information to that,
4 I'm assuming that would be in the Jencks that would be
5 turned over prior to trial. But Your Honor, what I'd like
6 to do is, I'd like to just one -- one thing I need to take
7 issue with is this, you know, refrain of the false
8 exculpatory statement.

9 The defense maintains that this is not a false
10 exculpatory statement, defense maintains that for the
11 August 22nd, 2022 robbery, that this was a statement
12 explaining why he was in the car, why these two men were
13 in the back seat of the car, and why all of the -- the --
14 the items that were stolen from the cell phone store were
15 in the backseat of the car, it -- it's -- it's -- it's
16 something he's going to testify to, it's not a false
17 exculpatory statement, it's actually his defense.

18 Your Honor, what I did mention earlier, and I --
19 and I -- and I apologize to the Court, is that one -- one
20 of the other reasons why mister -- besides the fact that
21 Mr. Jones wishes to remain silent on the -- will wish to
22 remain silent on the January 17th robbery, right, is
23 because he also has a prior conviction for a felony VUFA
24 charge, which would be admissible against him if he were
25 to testify, even if it was against the August 22nd

1 robbery.

2 Now, remember, the August 22nd robbery doesn't
3 -- now there may be allegations from cooperating
4 Defendants that, oh, he said there was a gun, but there
5 was never a gun that was recovered, there was never a gun
6 that was used, there wasn't a gun that was found in the
7 vehicle.

8 So Mr. Jones can testify regarding his defense
9 in that case, and even if the VUFA comes out, it's not
10 necessarily prejudicial because there was no weapon that
11 was used in that -- in that case, unlike the January 17th
12 robbery where not only was there a gun that was -- that
13 was used, that gun was used to -- to murder the -- the
14 store clerk.

15 So it would be highly prejudicial to have Mr.
16 Jones testify and be impeached with a prior conviction for
17 VUFA, which would be the -- the government could do that
18 under six zero nine. And have him, number one, be charged
19 with not only there being a shooting, but him being the
20 actual shooter.

21 And to Your Honor, if he has to remain silent,
22 you know, this is, you know, Your Honor is spot on, it's a
23 legal fiction to believe that a curative instruction
24 where, oh, the Defendant has a right to remain silent on
25 the murder, but he's going to testify to -- frankly, what

1 is, you know, a robbery with frankly, no -- no moment.

2 You know, the guidelines for this one robbery
3 for the August 22nd are relatively low, we're talking a
4 matter of -- of -- of a few years. There's not even a
5 nine twenty-four C for a consecutive hit. We're talking
6 about three, four years max.

7 We're talking about a man who's willing to take
8 the stand and testify about that and say, hey, I wasn't
9 there. But he's going to remain silent on the murder of a
10 charge that results in where he's accused of murder.

11 And not only did the clerk die, but he's accused
12 of being the one who shot the clerk and he's going to
13 remain silent on that? That is a charge where he's facing
14 life in prison.

15 And it is a folly for -- for anyone to believe
16 that any type of curative instruction can be given where
17 this jury's going to be like, well why the heck didn't he
18 just say he didn't do it?

19 And I'm -- frankly, I don't care about the
20 questions from the government, that's not the point. The
21 point is the inference from the jury, I believe the
22 government won't even go there because it serves them
23 well.

24 Why would they go there -- why would they go
25 there? You know, he -- he doesn't say anything about it,

1 I mean, the inference of the jury is if he didn't do it,
2 he would say it -- he didn't -- he said he didn't do it in
3 the first one, why isn't he saying he didn't do it in the
4 second one?

5 And that's the point, Your Honor, it's -- it's
6 -- it's -- it's a fiction that we can -- we can resolve
7 this with a curative instruction. This case is too
8 serious, there is a guideline range of life in this case.
9 There is no offer from the government to resolve this
10 case, well, this case is going to trial.

11 And when I've got a Defendant who's facing a
12 guideline range of life we can't embark on this fictional
13 hope that the government -- that this jury's going to
14 believe, well, oh, it's okay, he has the right to remain
15 silent.

16 In addition to that, the government's saying,
17 oh, they're in -- these -- these robberies are intertwined
18 -- intertwined. They are not intertwined, they are not,
19 we have the robbery on August 22nd.

20 And -- and if You Honor would like, and I think
21 it might be very helpful to the Court, and perhaps I
22 should have done this earlier, but I will do it after
23 this.

24 I can provide just a chart of -- of -- of the
25 evidence of -- of who was involved in what robbery.

1 So for example, August 22nd, we have the
2 Defendant, we have a Mr. Vincent, and we have a Mr.
3 Curtis. And mister -- the Defendant was allegedly, or was
4 driving his vehicle, he was in -- in the vehicle at the
5 time.

6 The vehicle that they're connecting on the 17th
7 robbery, there is a grainy, you know, video that looks a
8 little bit like it. But there's no license plate, there's
9 no identifying information for that vehicle. On the other
10 hand, Your Honor we have three robberies, two robberies on
11 the 15th and 16th, and also the robbery on the 18th.

12 This is important because the government chose
13 not to charge that, and they chose not to charge that
14 because the 15th, 16th, 17th, and 18th, all -- the 15th
15 involved Crafter, Brown, Sanders, and Vincent.

16 The 16th, Crafter, Brown, Sanders, and Vincent,
17 the 18th, Crafter, Brown, Sanders and Vincent, those three
18 robberies that occurred consecutively, that is where
19 Sanders was the getaway driver in a Dodge.

20 So inserted in there, we have the robbery on the
21 17th where now it's Crafter, Vincent, and the Defendant.
22 My point is, these robberies are not all the same, they're
23 not intertwined. If they were intertwined, then the 18th
24 would have been charged.

25 But the government knows that they're not

1 intertwined, these are separate robberies. So we have a
2 Defendant who has the right to testify, the Third Circuit
3 has said, this is from the Third Circuit, this is from the
4 Richter case, Your Honor --

5 THE COURT: Uh-huh.

6 MS. CINQUANTO: -- 647 F2nd 397, this is set
7 forth in our briefs. But the Court said that the accused
8 wished to testify on one but not the other of the two
9 joint offenses, which were clearly distinct in time,
10 place, and evidence. They're -- they're referring to
11 another case out of the D.C. Circuit Court.

12 Subsequent decisions of that court make it clear
13 that it requires severance only where the Defendant makes
14 a convincing showing that he has both the -- both
15 important testimony to give regarding one count and a
16 strong need to refrain from testifying in another, that's
17 from the Third Circuit.

18 And what we're saying here, Your Honor, is that
19 he has important testimony to give, he is going to testify
20 in the -- regarding that August 22nd trial, just like he
21 told the police officers. He said, I was a hack, the
22 evidence corroborates that he was a hack.

23 Now, whether the jury believes it is a different
24 story, but that's what he will testify to. And regarding
25 the -- and his reasons for not testifying at the other,

1 I've gave Your Honor those reasons, he wishes to remain
2 silent on the other.

3 Number one, if we've got this VUFA charge that's
4 out there that he can be impeached with, and there's a gun
5 that was involved, which he was accused of using to kill
6 someone, so he can't testify regarding that.

7 He has got an alibi, but his alibi can't
8 corroborate because he's also charged in this case, and
9 he's got a Fifth Amendment right to remain silent.

10 And Your Honor, the fact that the -- that --
11 that a jury is going to believe that a Defendant is going
12 to take the stand and testify about a robbery where there
13 was no gun involved and say, hey I didn't do this, but
14 he's going to remain silent on a robbery where he was
15 accused of executing a store clerk, essentially, it's just
16 -- it's folly.

17 And -- and this case is simply too serious to --
18 to allow that. The government says too that this is --
19 they're inextricably interwoven these robberies. Again,
20 they are not, if you -- if Your Honor looks at the case
21 law and I'm sure your -- Your Honor has and will --

22 THE COURT: Uh-huh.

23 MS. CINQUANTO: Okay. But Your Honor, those
24 cases where -- these cases are in -- in -- in --
25 inextricably intertwined, those cases involve, like for

1 example, there's one on the Third Circuit. I -- it's --
2 in fact, that's the Langelier case.

3 But in that case, Your Honor, there was a
4 Defendant who was getting a divorce from his wife. And
5 what happened was, he failed to pay child support, he ends
6 up in jail. So what he does is he decides he's going to
7 hire a hitman to kill the wife.

8 And then he decides he's going to hire a hitman
9 to kill, I believe it was the investigating officer. And
10 what that Defendant in that case wanted to do is he wanted
11 to sever those cases out, he's like, well, you know, I,
12 you know, there's no reason why this really bad case about
13 me wanting to hire a hitman should be combined with me,
14 you know, making threats against my wife.

15 And the Court found that it was inextricably
16 linked, right? You don't have the threats to kill people
17 unless there's the original charge. And here we don't
18 have that, that -- that -- that's not what we have here.

19 Or in a case where there's an escape, you know,
20 someone's charged with something and then he escapes from
21 prison because of that charge, that's -- that's
22 intertwined. This is not intertwined, we've got separate
23 -- five separate robberies that are distinct in location,
24 time, participants, and roles.

25 And each of these cases can be tried and should

1 be tried separately.

2 THE COURT: Ms. Cinquanto, does a common --
3 common scheme plan or design theory only work if there is
4 more than two? Because the government only alleged two
5 robberies to which your client has been charged involving
6 the counts that he has been indicted on.

7 And so I know you have emphasized five robbery
8 incidents, however, he is only alleged to have been
9 involved in two, has only been charged with two. And
10 while there may be others that Mr. Parisi has referred to
11 and the government has referenced, the Court is only
12 concerned with what's presented to it in the indictments.

13 And I'm looking at Federal Rule of Criminal
14 Procedure 8(a), and it says, two or more offenses, so
15 isn't two sufficient?

16 MS. CINQUANTO: Your Honor, two would -- two
17 would be sufficient. So let's just say we're taking these
18 two cases in a vacuum, right, let's just say we take the
19 August 22nd and we take the January 17th --

20 THE COURT: That's what the Court's taking.

21 MS. CINQUANTO: Okay -- okay. But -- so then it
22 just begs to reason why we're bringing in the 15th and
23 16th or if -- why that's even coming in, or even the 18th,
24 why that even wasn't charged. Because I believe that the
25 common plan scheme is with Crafter, Brown, Sanders, and

1 Vincent, that's the common plan scheme.

2 But if we're just taking August 22nd and we're
3 just taking the 17th, and that was the indictment that
4 appeared before Your Honor, that case would be severed.
5 Because you cannot bring in those two robberies that
6 occurred in different locations, different times,
7 different places, that case -- that would be severed.

8 The government is trying to -- to create this
9 chain to create a common plan and scheme, but there is no
10 common plan and scheme. Does that --

11 THE COURT: Can you have a -- you can have a
12 common plan scheme and design with just two offenses, am I
13 correct or incorrect? Do you agree with that or not?

14 MS. CINQUANTO: I completely agree with that,
15 Your Honor --

16 THE COURT: Okay.

17 MS. CINQUANTO: -- but -- but -- but here's the
18 -- but here's the situation. If you just look in a vacuum
19 of August 22nd, 2022 and you look at January 17th of 2022,
20 there is no common plan or scheme. There you have a
21 situation where there was a robbery with Defendant, Mr.
22 Vincent and Mr. Curtis.

23 It occurs five months before the 17th, it is a
24 robbery of a cell phone store, okay, where there is no
25 weapon involved. Now fast forward five months later,

1 okay, now we have different Defendants except for when
2 we've got Defendant, my client, Crafter, who was not
3 involved in the August 22nd robbery.

4 We've got Ruiz, which is not involved in the
5 August 22nd robbery, and we've got Vincent, he's the only,
6 you know, two. It's the -- a robbery of a gas station, it
7 uses a weapon and it -- and it involves incredible
8 violence, these are not the same, this is not a common
9 plan or scheme.

10 THE COURT: Things don't necessarily need to be
11 identical or apples to apples, would you agree, Counsel,
12 in order to have a common plan scheme or design?

13 MS. CINQUANTO: I -- I -- I agree, Your Honor,
14 but -- but -- but -- may I, Your Honor?

15 THE COURT: Uh-huh.

16 MS. CINQUANTO: But there has to be a whole lot
17 more than some cooperating Defendant saying, oh, yeah, he
18 said, you know, this is -- this will be a better score if
19 we rob a gas station than it is a cell phone store.

20 There's no -- there's no other connection
21 between those two robberies.

22 THE COURT: Except Mr. Vincent.

23 MS. CINQUANTO: Well, except Mr. Vincent, but
24 even Mr. Vincent's uncorroborated testimony, if that is
25 what he's going to testify to, also doesn't make a --

1 THE COURT: I don't know who's going to testify.

2 MS. CINQUANTO: I know, exactly. But Your
3 Honor, if whoever testifies to that, you know, convenient
4 piece of information, right, it -- and it doesn't even
5 make a whole lot of sense.

6 Who thinks they're going to rob a gas station at
7 two o'clock in the morning and it's going to be a bigger
8 haul than a cell phone store where they get tens of
9 thousands of dollars a product?

10 THE COURT: Well, regardless of the location of
11 the robbery two, whether it was a 7-Eleven or an Exxon or,
12 I mean, T-Mobiles and -- and Verizon's aren't open between
13 the hours of -- or at least the hour that the second
14 robbery took place.

15 Regardless of what the location is, I think it
16 is the method to which the robbery was conducted and who
17 was involved. And we do have commonality as to who was
18 involved and based upon what the government has stated,
19 while a weapon was not present, recovered at Robbery One,
20 there was -- I would suspect, based on what's been
21 presented to me, at least the discussion and/or dialogue
22 over the weapon and the use of a weapon in robbery one.

23 So there are elements there that the government
24 has presented which suggest the basis for why they joined
25 these matters, that is your burden to tell me why they

1 should not be.

2 MS. CINQUANTO: Well -- okay. Well, Your Honor.
3 Okay. So -- so we are dealing with like two different
4 rules here. So under Rule 8, right, which I originally
5 had conceded, okay. And we are -- and the government now
6 is saying, you know, and then I came back and said, well,
7 I don't think it's a common plan scheme.

8 If, Your Honor, you know, I'm just going to rest
9 on that piece. If -- if -- if Your Honor is saying, you
10 know, I believe there's a common plan scheme, Rule 8
11 they're properly joined, fine. Let's go to the real --
12 the real issue here.

13 And the real issue here is Rule 14(a), which
14 gives this court the discretion to sever when there is
15 substantial prejudice to a defendant. And one of those --
16 and it's not that this is a very rare offense.

17 I just handled a case in (unintelligible) matter
18 where Judge Schmill had absolutely no problem with
19 severing out the honor services piece of that case with
20 the theft piece. Okay, no problem whatsoever. So this
21 isn't some, you know, unknown thing.

22 Your Honor, what we have here is if -- if -- if
23 you take -- what the case law says is that substantial
24 prejudice can arise in an -- in a number of different
25 ways. The way that it is arising in this case, besides

1 the fact that we have, you know -- well, let's just say
2 the way it's arising in this case, which is of most
3 concern to the defense, is that Mr. Jones has a defense to
4 the August 22nd robbery.

5 He has told the police that defense. This isn't
6 coming out of whole cloth, okay? He told the police that
7 defense, the -- the circumstances of that with the two
8 defendants, the co-defendants sitting in the back of the
9 seat with all the stuff found in the back seat would be a
10 reason for him to testify.

11 No question. And he will testify to that. But
12 Your Honor, he wants to remain silent on the murder. And
13 he -- he -- for -- for a number of reasons that I've
14 already explained to Your Honor --

15 THE COURT: Correct.

16 MS. CINQUANTO: -- which I won't -- I won't go
17 into again. But -- and the case law out of the Third
18 Circuit makes it very clear. It is essential that the
19 defendant present enough evidence regarding the nature of
20 the testimony he wishes to give on one count, which is
21 what I've -- we've told Your Honor, okay, and his reasons
22 for not testifying on the other.

23 His reasons for not testifying on the other is
24 that his -- his -- his alibi, so to speak, and the -- and
25 the statement he gave to the police, which is he was

1 having a romantic liaison with his girlfriend, Ms. Ruiz,
2 she's also been charged in this case. He can't call her
3 to testify. He can't lean on her to corroborate that.

4 Furthermore, Your Honor, if he testifies on the
5 June 22nd, it opens himself up to cross-examination on a
6 gun conviction, a felony gun conviction that he has. I
7 don't mind that on the August 22nd because there's no gun
8 involved.

9 But I certainly, that's a certain -- certainly a
10 problem when we get to the testimony regarding his -- the
11 cross examination when the government seeks to impeach him
12 on the gun charge and he's being charged in another crime
13 where he not only used it -- well, he used a gun allegedly
14 to kill somebody.

15 And then finally, Your Honor, we have a
16 situation where we have, you know, a fairly innocuous
17 robbery that occurs on August 22nd with no weapon, no
18 death, no harm to anyone and where the defendant is going
19 to be willing to speak to that, but yet is not going to
20 answer to the allegation that he shot someone in the back
21 at a gas station.

22 You -- the -- the jury just simply will not be
23 able to -- to overcome the -- the inference of guilt that
24 he's not testifying to that. And no instruction can --
25 can cure that. I mean, so that -- that's the defense

1 position. Let me just check with my co-counsel to make
2 sure that I've --

3 THE COURT: Of course.

4 MS. CINQUANTO: -- covered everything.

5 THE COURT: Thank you, Ms. Cinquanto.

6 MS. CINQUANTO: Thank you, Your Honor. I
7 appreciate that. Nothing further.

8 THE COURT: You're fine. Okay.

9 MS. CINQUANTO: Yes.

10 THE COURT: Thank you, Ms. Cinquanto. And Mr.
11 Parisi, I'm happy to hear from you, but I think the only
12 thing that I stated earlier, which is what I would
13 anticipate receiving from the government is -- is what
14 would be a suggested cure and/or instruction in terms of a
15 pattern jury instruction that may have been presented in
16 previous cases where situations like this are presented
17 where a defendant has testified and seeks to testify on
18 one, but not any of the other or more than one other,
19 multiple other matters that are being joined or have been
20 joined by the government and the prosecution.

21 MR. PARISI: We will dig into that, Your Honor.

22 THE COURT: Go ahead.

23 MR. PARISI: The only thing I -- I just wanted
24 to correct, Ms. Cinquanto said the January 18th robbery
25 was never charged. It was, it's count six. I --

1 THE COURT: Thank you.

2 MR. PARISI: You know, that -- that's all I
3 wanted to clarify. But otherwise --

4 THE COURT: I appreciate that clarification. I
5 was actually looking with the counts that I have here, but
6 I only have those in so far as Mr. Jones is concerned.

7 MR. PARISI: Right.

8 THE COURT: So I don't have any as to any of the
9 other identified --

10 MR. PARISI: Yeah, that -- that's --

11 THE COURT: -- defendants. And so I -- I lacked
12 that count in front of me, so thank you.

13 MR. PARISI: Yeah.

14 THE COURT: I will -- having heard all the
15 arguments on that motion and knowing what the Court has
16 directed counsel to provide to it in order to complete my
17 deliberation. I will make a decision subsequent to
18 receiving the information from counsel.

19 And what I will do is I will set a date after I
20 hear and receive evidence on the remaining motions where
21 everything can be submitted to the Court. So I will hold
22 off on providing a date due until after we hear and
23 receive evidence on the motions to suppress.

24 MS. CINQUANTO: Your Honor, could I preserve the
25 right to respond to whatever order the government puts

1 together so I could just --

2 THE COURT: Yes.

3 MS. CINQUANTO: -- get it, respond to it and --
4 okay, thank you, Your Honor.

5 THE COURT: Yes, you -- you will have the right
6 to respond to that. Yes.

7 MS. CINQUANTO: Thank you.

8 THE COURT: Now, we're moving into the motions
9 to suppress that have been filed, and we have E.C.F. 135
10 and E.C.F. 143. They were filed by defense counsel on the
11 basis of violations of the defendant's due-process rights
12 and equal protection under the United States Constitution.

13 And so the burden is on the government,
14 obviously to present evidence that would counter that
15 specific basis. I will let, obviously, Ms. Cinquanto
16 state for the record the basis of her motion again, and
17 then I will turn to the government to go ahead and present
18 them in the order that -- that he would like to do so and
19 to make sure that the witnesses that you have an intent to
20 present are present in the Courtroom. Ms. Cinquanto?

21 MS. CINQUANTO: Yes.

22 THE COURT: For purposes of the record, I don't
23 want to couple them. So I would advise you to do one and
24 then do the other. That way it makes it clear, because I
25 will be making my ruling obviously, independently.

1 So if that provides some guidance for you,
2 whether you start with 135 or 143, I -- I don't have a
3 preference. The Court will take them in in any order, and
4 it may be based on the government's witnesses and who's
5 available. But you are welcome to proceed. I just ask
6 that you do address them separately. I will take one of
7 them first and then the other One second.

8 MS. CINQUANTO: Yes, Your Honor. Your Honor,
9 I'm going to refer -- address E.C.F. 135. Your Honor, in
10 this case we are -- we are moving -- we -- we've requested
11 at the evidentiary hearing, which we think will result in
12 the suppression of Mister -- of -- of the statement that
13 was taken from Mr. Jones, as well as items seized from his
14 car after his initial seizure on August 22nd, 2022.

15 As I stated in my motion, Your Honor the
16 question here is whether the initial seizure of Mr. Jones
17 through the establishment of a roadblock on Broad Street
18 without any individualized articulable suspicion concerned
19 -- concerning either him or his vehicle violate --
20 violated his constitutional right -- his constitutionally
21 protected right to be free from unreasonable searches and
22 seizure.

23 And in this case, Your Honor, we are arguing
24 that there is no indication at the time of the roadblock
25 that the police knew a vehicle was used to leave the scene

1 of the August 22nd robbery, much less the type of vehicle
2 or the identity of the driver.

3 Likewise, there is no indication how many
4 vehicles or people were stopped -- and people were stopped
5 at the roadblock, or whether the stop included pedestrians
6 who were in the vicinity of -- who were in the vicinity of
7 the roadblock.

8 In fact, after the roadblock is put in place,
9 officers at the roadblock are repeatedly given
10 information, which would nullify the need for a roadblock,
11 including information that the perpetrators were on foot.
12 That one of the perpetrators had escaped the area on a
13 SEPTA bus.

14 And that the tracker continued to show the
15 phones on the move even after the cars had been stopped at
16 the roadblock. So in the absence of sufficient evidence
17 to justify the use and operation of the roadblock, Mr.
18 Jones respectfully submits that the seizure was
19 presumptively impermissible, and the fruits of the search
20 must be suppressed.

21 THE COURT: Thank you, Ms. Cinquanto. Mr.
22 Parisi?

23 MR. PARISI: Yes, Your Honor. Your Honor, we
24 have two witnesses for this issue. Before I -- I call the
25 first one, we have an agreement with counsel that all the

1 government's exhibits for both the suppression motions are
2 admissible.

3 So I'm -- I'll just formally move the admission
4 of Government's One through Seven. And for the record
5 Government's One is the defendant's January 25th statement
6 to homicide investigators.

7 Government's Two is a written summary of the
8 defendant's statement to homicide investigators on January
9 25th.

10 Government's Three is a video recording of the
11 interview the defendant gave to detectives after the
12 August 22nd robbery.

13 Government's Four is the complete collection of
14 nine one one calls and police radio broadcasts surrounding
15 the August 22nd robbery.

16 Government Five is the body camera footage from
17 Officer Cappellano of the Philadelphia Police Department
18 on August 22nd.

19 Government's Six is a body cam for August 22nd
20 of Officer Strange. And Government's Seven is the body
21 cam for an Officer Swaitaj (phonetic spelling) also from
22 August 22nd, as I just said.

23 So just with that, I'm going to call our first
24 witness, if I may, Your Honor

25 THE COURT: You may. And all those exhibits

1 will be accepted into evidence as moved by you and without
2 objection from defense. Thank you

3 MR. PARISI: Your Honor. First witness is
4 Corporal Debra Kiker.

5 COURT CLERK: Please raise your right hand. Do
6 swear or affirm that the testimony (unintelligible) the
7 Court should be the truth and nothing but the truth, so
8 help you God and do you so affirm?

9 MS. KIKER: I do.

10 WITNESS; DEBRA KIKER; Sworn

11 COURT CLERK: Please state and spell your name
12 for record.

13 THE WITNESS: Deborah Kiker, K-I-K-E-R.

14 THE COURT: Thank you very much. Good morning.

15 THE WITNESS: Good morning, Your Honor.

16 THE COURT: Nice to see you.

17 MR. PARISI: May I proceed, Your Honor?

18 THE COURT: Yes.

19 DIRECT EXAMINATION

20 BY MR. PARISI:

21 Q. Good morning. Corporal Kiker, where is it
22 that you work?

23 A. Police Radio.

24 Q. For the Philadelphia Police Department?

25 A. That's correct.

1 Q. And how long have you been with the police
2 department?

3 A. The police department, twenty-eight years.

4 Q. And how long with the police radio
5 responsibilities?

6 A. Seven.

7 Q. Have you ever encountered, and I'm focusing
8 in on your time with police radio, a situation where a
9 robbery occurs in Philadelphia and a G.P.S. tracking
10 device is taken?

11 A. Yes.

12 Q. Can you tell the Judge just a little bit
13 about what information the police radio unit gets when a
14 G.P.S. tracker is taken?

15 A. So we -- an alarm goes off, it sounds like,
16 no, oh! The alarm goes off. When the alarm goes off, the
17 map appears. So when they log onto the tracking system
18 it's just a screen where you could actually look at
19 different devices.

20 When a tracker actually goes off, a map pops up
21 shows you where the device is and the direction the device
22 is going.

23 Q. And Corporal Kiker when - (unintelligible)
24 understand that the G.P.S. trackers are monitored or
25 controlled by a private company?

1 A. Yes.

2 Q. Is 3SI Security one of those companies?

3 A. Yes.

4 Q. But the Philadelphia Police Department has
5 access to the -- the data, is that --

6 A. Correct.

7 Q. -- accurate?

8 A. Yeah, we log onto the system and we monitor
9 it.

10 Q. And when that happens and that the -- the
11 alarm goes off, do officers in the police radio unit have
12 responsibilities for broadcasting the device's location?

13 A. They are civilians, they're not officers.

14 Q. Okay. Thank you.

15 A. But yes, they do. So we keep it on what we
16 call our J band, which is our citywide band because they
17 can dispatch to any band. When the tracker goes off, they
18 verify that it is or was taken and they're not just moving
19 it, so we got to verify that first.

20 And they go over there and notify the officers
21 what directions it's going. You can tell the speed it's
22 going. So you can usually tell if it's in a car or
23 walking or sometimes, like if they're on a bicycle, like
24 it's a little confusing. But you can usually tell whether
25 they're walking or in a car.

1 Q. Is the location accuracy sufficient to give
2 intersections and directions of travel on streets?

3 A. Yes.

4 Q. Have you ever encountered a situation where
5 the G.P.S. device becomes stationary?

6 A. Yeah.

7 Q. When the G.P.S. devices are stationary, how
8 accurate is the location data?

9 A. Well, that depends on the situation because
10 the map will tell you the radius of accuracy that -- that
11 the tracker is. So you'll have a general idea of a radius
12 of where the tracker is.

13 Q. Have you encountered situations where the
14 tracker is stationary, but on your map or that radius as
15 you just described it, it still appears to be moving?

16 A. Yeah, it just kind of jumps all over, it's
17 -- it's -- because they bounce off of the cell phone
18 towers, so it's just the G.P.S. hitting towers. So it
19 looks like it's kind of just jumping around in there.

20 MR. PARISI: That's all I have, Your Honor.

21 THE COURT: Thank you. Cross-examination?

22 MS. CINQUANTO: Yes, Your Honor.

23 CROSS EXAMINATION

24 BY MS. CINQUANTO:

25 Q. How you doing?

1 A. Hi.

2 Q. Just a couple of questions.

3 A. Uh-huh.

4 Q. So you testified that you could tell if --
5 if someone is -- the tracker if somebody was walking or in
6 a car, is that right?

7 A. Well, normally, because the speed of it,
8 it'll tell you how fast the tracker is going. I mean, and
9 if it's going twenty-five, you're not walking.

10 Q. Okay.

11 A. But if you're in traffic, it could, you
12 know, be deceiving.

13 Q. Right. But -- but -- but -- but my point
14 is that -- is that if -- if -- if -- if the track -- if
15 the tracker was walking down the street, that is easily
16 discernible versus it being in a vehicle. Is that right?
17 If a vehicle is traveling at a certain speed of fifteen,
18 twenty miles an hour?

19 A. Yes.

20 Q. Okay. And regarding it being stationary
21 and bouncing all over the place, because let me just make
22 sure I got this clear. You've got pretty much a -- a map
23 in front of you, is that right?

24 A. Correct.

25 Q. What does the little icon look like of the

1 -- of the -- the little track -- the thing you're
2 tracking?

3 A. It's just lines. It's just lines on the
4 map.

5 Q. Okay. Okay. So when you have these lines
6 on the map though, like if it's a line, how do you know
7 where the -- the beginning of the line is and the end of
8 the line is? Do you know what I'm saying? I'm -- I'm
9 just confused.

10 A. Well, the beginning is at the store and it
11 just goes on the map.

12 Q. Fair enough.

13 A. It just keeps --

14 Q. Okay. No, no, thank you. I just --

15 A. Okay.

16 Q. I've never seen this before, so just bear
17 with me here. So I guess my question to you then --

18 THE COURT: Well, may I ask the question?

19 MS. CINQUANTO: Uh-huh.

20 THE COURT: If it is not beginning at the store,
21 but is moving from another point, is there -- is the
22 object or the tracker an arrow, or is it a dot? Like how
23 is it represented on the map?

24 THE WITNESS: It's represented as a continuous
25 line from start --

1 THE COURT: Understood.

2 THE WITNESS: -- to finish.

3 THE COURT: Thank you.

4 THE WITNESS: It continues --

5 THE COURT: Okay.

6 THE WITNESS: Okay.

7 BY MS. CINQUANTO: (Cont'g.)

8 Q. And when you say that when it's stationary,
9 sometimes this line will sort of go here and then go here
10 and when I -- when I'm saying that I'm actually moving for
11 the -- let the record reflect of moving a foot to the left
12 a foot to the right.

13 I mean, how far is this distance if it's
14 stationary, is it sort of bouncing around? Does it bounce
15 around a few feet? Does it bounce around a few hundred
16 feet? Like can you describe that?

17 A. Yeah, it's usually just in the area. See,
18 when it goes off, it has a circle around it also. And it
19 gives a radius of its -- you know, the tracker is in that
20 radius for each tracker. And each time it's different.

21 Q. All right. Well, my -- my -- my question
22 to you is this, you testified that the tracker is bouncing
23 off of a cell tower, is that right?

24 A. Well, yeah, it -- it's communicating
25 through the towers.

1 Q. Okay. Now when you're saying it's
2 communicating through the towers, is it just bouncing off
3 of one tower or is it being triangulated?

4 A. I don't know. I don't work for 3SI, I do
5 not know.

6 Q. Okay. Do you know -- but do you know that
7 bouncing off of one tower is -- is less precise than if a
8 -- if -- if a something is being -- is being triangulated
9 with three different cell towers? I mean, are you aware
10 of that or --?

11 A. I mean, I would -- I don't know. I guess
12 it would be more accurate, but I don't know how they do
13 it.

14 Q. Fair enough.

15 A. I don't know their -- their --

16 Q. So I'm -- I'm putting -- I'm putting you in
17 front. Did -- were you the, were you the officer who was
18 in front of the screen kind of watching all this going
19 around?

20 A. No, I was not.

21 MS. CINQUANTO: Well then, Your Honor I
22 misunderstood. I thought this was the officer who
23 actually was watching the movement of the tracker.

24 BY MS. CINQUANTO: (Cont'g.)

25 Q. So you're not testifying in concerns in --

1 in particular to this particular case, right?

2 A. No, just how the tracker works.

3 Q. All right. Fair enough. But when you say
4 -- I -- I just need to get down to this bouncing around
5 issue. Is it fair to say that when a tracker is in the
6 city, right, where cell towers are very close together,
7 that it will tend to bounce off of one cell tower?

8 A. I do not know that. I do not work for the
9 company. I do not know how the trackers are -- that they
10 hit one tower, multiple towers. I do not know.

11 Q. Do you have any idea when a -- when the
12 cell phone is or when the tracker is stationary, how far
13 it will bounce around the screen when it -- how -- I'm
14 trying to get an idea, does -- does -- does the -- does
15 this bouncing thing occur like, and it goes, it bounces a
16 block this way or a block that way?

17 A. No, no, not that far.

18 Q. How far does it bounce around?

19 A. It -- it -- it's usually within the area
20 with -- I mean --

21 Q. And how big is that area that you're
22 talking about?

23 A. Maybe an intersection, maybe.

24 Q. So -- and I'm not trying to -- to -- to --
25 I'm just -- I'm curious, I'm not trying to confuse you.

1 So this area, would it be, you know, a ten feet
2 diameter, a five feet diameter?

3 A. The tracker would tell you the radius, if
4 -- if you were -- if you had it in front of you and you
5 were looking at it actively as it's going on, it puts a
6 circle and says it's in -- within this radius, it tells
7 you at that time. So it varies for each, each incident --

8 Q. Right.

9 A. -- where it is.

10 Q. So I -- so I guess my question is, is the
11 radius, so how big is that radius? Is it a two-block
12 radius or one block radius? A five-foot radius? That --
13 that -- that's the question that I have that's -- that's
14 important.

15 MR. PARISI: Objection, asked and answered.

16 THE COURT: I will let her ask it. I -- I know
17 where Ms. Cinquanto is trying to go. And so I'll allow
18 this -- this attempt again to see if we can drill down how
19 large of a radius it is. Can you identify the radius in
20 terms of feet?

21 THE WITNESS: No. No, because I didn't see the
22 tracker when it was going off. I don't know what the
23 radius was at the -- at the time that it went off, but
24 that tells them. So they know what the actual current
25 time, what the radius is. And they can tell the officers

1 it's in this general area.

2 MS. CINQUANTO: Sure.

3 BY MS. CINQUANTO: (Cont'g.)

4 Q. I -- I -- I -- I get that. Let me ask you
5 this question. You had testified before that you had
6 experience with tracking these type of trackers?

7 A. Yes.

8 Q. So let's just talk about your personal
9 experience. When you are tracking these trackers in other
10 instances, what was the radius distance in that situation?

11 A. It's -- it's normally right there in the
12 general area of where the tracker is.

13 THE COURT: If I may Ms. Cinquanto?

14 MS. CINQUANTO: Uh-huh.

15 THE COURT: So Corporal, are you able to
16 identify with this tracker or any other tracker that you,
17 in your experience, have had the opportunity to track or
18 -- or watch. Are you able to identify how large the
19 radius is based upon what you are viewing on your screen?

20 THE WITNESS: The screen will tell you how large
21 the radius is.

22 THE COURT: Okay.

23 THE WITNESS: While you're actively tracking it,
24 it will tell you, because it puts a little circle and it
25 says it's within this radius, and --

1 THE COURT: Okay.

2 THE WITNESS: -- it depends on the tracker and
3 -- and what's going on, how big or small the radius is.

4 THE COURT: And in this instance, you did not
5 see the --

6 THE WITNESS: I did --

7 THE COURT: -- tracker for this specific matter
8 involving this specific defendant, correct?

9 THE WITNESS: I did not, correct.

10 THE COURT: So you're not able to say what the
11 tracker in this case was emitting in terms of a radius
12 when the -- when the tracker was stationary?

13 THE WITNESS: Correct.

14 THE COURT: Am I correct?

15 THE WITNESS: Correct.

16 THE COURT: You may continue with your question.

17 MS. CINQUANTO: All right. One moment, Your
18 Honor.

19 BY MS. CINQUANTO: (Cont'g.)

20 Q. One or two more questions about that.

21 When you're looking at this radius, in your
22 experience, does it give you a numeric number?

23 A. Yes.

24 Q. Does it say -- okay --

25 A. It's usually meters. It's usually what it

1 goes meters.

2 Q. Okay. Okay. And in your experience, how
3 small was the radius that you've experienced with your --
4 with the trackers that you've had to track?

5 A. Usually within a block.

6 Q. Okay. All right.

7 MS. CINQUANTO: That's all I have, Your Honor.
8 Thank you.

9 THE COURT: Thank you. And my quick follow to
10 that that within a block is when the tracker is
11 stationary, correct?

12 THE WITNESS: Yes.

13 THE COURT: Okay. That's the only follow up. I
14 -- did my question prompt any question from you, Ms.
15 Cinquanto?

16 MS. CINQUANTO: No, Your Honor.

17 THE COURT: Okay. Mr. Parisi?

18 MR. PARISI: No redirect. Thank you, Your
19 Honor.

20 THE COURT: Okay. Thank you, Corporal.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: You may step down

23 MR. PARISI: The next witness, Your Honor, is
24 Officer Cein Strange.

25 MR. STRANGE: Thank you. Morning, Your Honor.

1 THE COURT: Good morning. How are you?

2 MR. STRANGE: Good, thank you ma'am.

3 THE COURT: Thank you.

4 COURT CLERK: Please raise your right hand. You
5 do swear or affirm that the testimony you shall give the
6 Court will be the truth, the whole truth, and nothing but
7 the truth so help you God or you do -- you do so affirm?

8 MR. STRANGE: I do.

9 WITNESS; CEIN STRANGE; Sworn

10 COURT CLERK: Please state and spell your name
11 for the record.

12 THE WITNESS: Police Officer Cein, C-E-I-N,
13 Strange, S-T-R-A-N-G-E, badge six nine two six, assigned
14 35th District.

15 THE COURT: Thank you. Officer, you may have a
16 seat.

17 THE WITNESS: Thank you, Ma'am.

18 MR. PARISI: Mr. Parisi?

19 MR. PARISI: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. PARISI:

22 Q. Officer Strange, how long have you been a
23 police officer in Philadelphia?

24 A. Just over four and a half years.

25 Q. And you just mentioned you were assigned to

1 the 35th. Have you been in the 35th the whole time?

2 A. I have, yes, Sir.

3 Q. All right. I'm going to focus your
4 attention to August 22nd of 2022. Were you working in the
5 35th that day?

6 A. I was.

7 Q. And right around three p.m., did you
8 receive a radio call about a robbery at a cell phone
9 store?

10 A. I did.

11 Q. Were you alone that day or working with
12 another officer?

13 A. I was working with a partner police
14 officer, Joseph Cappellano, C-A-P-P-E-L-L-A-N-O, his badge
15 is two four five two.

16 Q. Do you recall whether you were driving or
17 -- or Officer Cappellano was driving?

18 A. I was driving.

19 Q. All right. So shortly after three p.m.
20 when you received the radio call about a robbery was that
21 at a Metro P.C.S. store at 101 East Olney Avenue here in
22 Philadelphia?

23 A. It was.

24 Q. Besides the initial broadcast, did you
25 receive additional radio calls concerning that robbery?

1 A. We were being relayed through J Band cell
2 phone tracker information.

3 Q. And was that a cell phone tracker taken in
4 the robbery?

5 A. Yes.

6 Q. So is it -- was it a -- a police radio
7 employee or dispatch or broadcasting location of that,
8 that tracking device?

9 A. Correct, they were updated in locations.

10 Q. And were you listening to those locations
11 as you -- I assume proceeded to the area?

12 A. I was.

13 Q. Did they -- did you receive broadcasts
14 indicating particular road intersections where the tracker
15 was located at various times?

16 A. (unintelligible) either road intersections
17 or -- or a hundred blocks it -- it could come in usually
18 in that kind of -- either -- either, it'll be at an
19 intersection or it'll be a -- a hundred block or between
20 streets, things like that.

21 Q. Okay. So as on August 22nd, as you're
22 receiving those broadcasts and you were proceeding into
23 the area, did you believe you were looking for a device
24 that was on foot with a person or in a vehicle?

25 A. I believe it was in a vehicle based on the

1 speed at which the tracker was moving.

2 Q. And are you familiar with the bus routes
3 and public transit routes in that area?

4 A. Somewhat.

5 Q. Just thinking about the tracking locations
6 that you were receiving, were you aware of any bus routes
7 on that -- that path?

8 A. No.

9 Q. So did that go into your thought process,
10 that there was a -- that you're looking for a car

11 A. Correct, yes.

12 Q. Ultimately, did you and Officer Cappellano
13 and other officers end up at the intersection of Broad
14 Street and Venango Avenue here in Philadelphia?

15 A. We did.

16 Q. And why'd you end up there

17 A. Following the tracker.

18 Q. Was that kind of the last location that was
19 broadcast?

20 A. It was. It was pinged to that block of
21 Broad Street.

22 Q. When you initially arrived to that
23 intersection, did you block traffic at all?

24 A. I did.

25 Q. For approximately how long, if you recall?

1 A. I don't remember the exact length of time.

2 Q. Did you exit your vehicle at that location?

3 A. I did.

4 Q. And did you start looking for the tracker?

5 A. I did.

6 Q. While you were doing that, were you
7 receiving flash radio information or descriptions of the
8 people involved in the robbery?

9 A. We were.

10 Q. And was it more than one person?

11 A. It was. It was -- the flash was being
12 given for two males.

13 Q. Ultimately, did you and other officers find
14 men who you believed fit that description in an S.U.V.
15 driven by the defendant, Chihean Jones?

16 A. We did.

17 Q. Before you identified them or pulled them
18 out of the vehicle, which we'll get to in a minute, did
19 you notice their demeanor? Did you see them in the car?

20 A. I did see them in the car, yes.

21 Q. Was there anything unusual about the
22 demeanor of the defendant and the other two men in the
23 S.U.V.?

24 A. They were all sat quite upright and staring
25 straight forward. They weren't paying too much mind to

1 the fact that the police were there. They were -- they
2 weren't looking directly over to us, (unintelligible) the
3 rest of the traffic. Everybody in all the other vehicles
4 was trying to figure out what was going on. They were all
5 pretty laser focused at looking forward.

6 Q. So did that stand out to you when you got
7 to that intersection?

8 A. It stood out to be -- as unusual.

9 Q. And then focusing on the S.U.V. itself, was
10 there anything about the -- the S.U.V. that drew your
11 attention to it?

12 A. Tinted windows, and then the Pennsylvania
13 temp tag on the rear of it.

14 Q. Well, first about the tint, what was
15 unusual or what drew your attention with the tint?

16 A. The tint is illegal in the city of
17 Philadelphia just did -- based off the traffic code --

18 Q. Okay.

19 A. -- the front windows were tinted.

20 Q. And then what about the -- the temporary
21 tag?

22 A. A temporary tag appeared to be a fake
23 Pennsylvania temporary -- temporary tag, which is very
24 common in the city.

25 Q. Ultimately, did you remove two men from the

1 backseat and place them in handcuffs until a victim could
2 arrive and -- and try to identify them?

3 A. I removed one male.

4 Q. Okay. Did another officer remove another
5 individual?

6 A. Correct, yes.

7 Q. On August 22nd, were you wearing a body
8 camera?

9 A. I was.

10 Q. And did you activate it at the point when
11 you removed that man that is in the backseat?

12 A. I did.

13 Q. Okay.

14 MR. PARISI: This has already been admitted,
15 Your Honor. May I publish Government's Six, Officer
16 Strange's body camera?

17 THE COURT: You may.

18 BY MR. PARISI: (Cont'g.)

19 Q. Officer Strange, I'm going to just pause
20 that. Can you see that on the screen there?

21 A. I can.

22 Q. And there's also -- there's a big screen in
23 front of you, but --

24 A. Yeah, it's clear.

25 Q. Is this your body camera footage from

1 August 22nd?

2 A. I believe it is, yes

3 Q. And is that the man there in this -- in the
4 seat, the man you pulled out of the car?

5 A. Yes.

6 Q. I want to focus first in the top right
7 hand. Is there a time and date stamp on that?

8 A. There is.

9 Q. And it says 2022 August 22nd, and then
10 what's the time next to it?

11 A. So it says nineteen twenty hours and
12 thirty-two seconds. The Z is Zulu. So it's what the
13 military would use. Zulu time is essentially G.M.T., it's
14 time -- time zone in London and that's what they tag the
15 body cameras under. So the time difference will be four
16 to six hours based on whatever time of year we're in.

17 Q. And --

18 MS. CINQUANTO: I'm sorry, what exhibit is this?

19 MR. PARISI: This is Government's Six.

20 MS. CINQUANTO: Six, thank you.

21 BY MR. PARISI: (Cont'g.)

22 Q. All right, so that time of year, nineteen
23 twenty hours, Zulu, what does that correspond to in -- in
24 some regular people time?

25 A. It -- it should be two twenty p.m. It

1 should be a five-hour time difference.

2 Q. If the radio call was at three o'clock,
3 could it have been three twenty?

4 A. Yeah, it could have been. Yeah. Yeah, it
5 depended on --

6 Q. Okay.

7 A. Again, it depends on their time zone
8 changes at different times to ours, so.

9 Q. All right. Have you also reviewed --
10 before I hit play on -- on these body cams -- body cams
11 from Officers Cappellano, your partner and another officer
12 named Swaitaj who were also at the scene?

13 A. I have.

14 Q. And did they all fairly and accurately
15 capture everything?

16 A. They did.

17 Q. Okay. All right. So at approximately
18 three twenty p.m. is that when you had already identified
19 the Keon Vincent, the man on the screen and -- and began
20 the process of taking him out of the car?

21 A. Yes.

22 Q. I'm actually going to jump over to -- am I
23 correct that your body cam didn't turn on until this
24 point?

25 A. That's correct.

1 Q. Okay. So you didn't have the response
2 time, so to speak?

3 A. No.

4 Q. Okay. Did Officer Cappellano's body cam
5 capture the response?

6 A. It did. He had the -- the woman at
7 (unintelligible) prior to turning his on.

8 MR. PARISI: All right, Your Honor, this is
9 Government's Five that was already admitted.

10 BY MR. PARISI: (Cont'g.)

11 Q. Officer Strange, just looking at that, is
12 this Officer Cappellano's body cam from August 22nd?

13 A. It appears to be, yes.

14 Q. And then the timestamp on this, what time
15 is that?

16 A. Nineteen seventeen Zulu, so three seventeen
17 p.m.

18 Q. Okay. So approximately three minutes
19 before you removed Keon Vincent from the car?

20 A. Correct.

21 Q. All right.

22 MR. PARISI: I'm just going to hit play if I
23 may, Your Honor?

24 THE COURT: You may.

25 BY MR. PARISI: (Cont'g.)

1 Q. And Officer Strange as this is playing, is
2 this while you and Officer Cappellano were still going to
3 Broad and Venango?

4 A. That's correct. There's no audio because
5 it's a buffer, he hasn't actually activated his camera
6 yet. It's just on a standby mode.

7 Q. So once he activates it, it goes back about
8 a minute and takes the, the video data from that?

9 A. That's correct.

10 Q. Okay.

11 MS. CINQUANTO: One moment, Your Honor.

12 MR. PARISI: Do you even pause it?

13 THE COURT: You could pause.

14 BY MR. PARISI: (Cont'g.)

15 Q. At this point, nineteen seventeen or just
16 over to nineteen eighteen, have -- have you driven into
17 oncoming traffic a little bit there?

18 A. Yes.

19 Q. And now you've pulled over at -- let me
20 pause it right there where the audio kicks in. And it
21 looks like Officer Cappellano gets out of the car. Is
22 that -- am I reading correctly, nineteen eighteen?

23 A. That's correct.

24 Q. All right. And is this the intersection
25 Broad and Venango?

1 A. It is.

2 Q. All right. I'm just going to hit play here
3 then.

4 (Video plays)

5 Q. Just pause for a second there at nineteen
6 eighteen and forty seconds, have you now moved your --
7 your patrol car out of the way of traffic?

8 A. I believe I've moved it out of at least one
9 of the lanes.

10 Q. Okay. I'll hit play again.

11 (Video Plays)

12 Q. All right, I'm going to pause it there.
13 Timestamp, am I correct it's nineteen twenty and nine
14 seconds?

15 A. Correct.

16 Q. And at this point, are you now at the --
17 the back door of that S.U.V.?

18 A. I am. That's me just off the right side of
19 that brake light there.

20 Q. And -- and there's another officer with you
21 and -- and moments later, is that when you identify Keon
22 Vincent, begin to pull him out of the car?

23 A. Yes.

24 Q. And just so we're abundantly clear, that's
25 the S.U.V. we're talking about, right?

1 A. That's correct.

2 Q. Okay. I'm just going to play up to that
3 point and then we'll -- we'll stop.

4 (Video Plays)

5 Q. All right. And now we're at nineteen
6 twenty and forty-four seconds. At this point, have both
7 you and -- and Officer Cappellano begun to remove both
8 backseat passengers?

9 A. That's correct, we have, yeah.

10 Q. Ultimately, do you know if -- if stolen
11 cell phones were taken out of the back of this car?

12 A. I'm not a hundred percent sure.

13 Q. You don't know? Okay.

14 A. No.

15 MR. PARISI: Your Honor, those are all the
16 questions I have for Officer Strange. And I'll refer to
17 some of the radio call evidence later in my argument, but
18 that's all I have for him.

19 THE COURT: Thank you, Counsel. Ms. Cinquanto?

20 MS. CINQUANTO: Okay. Yes.

21 CROSS EXAMINATION

22 BY MS. CINQUANTO:

23 Q. Good morning, Officer Strange.

24 A. Good morning. Good morning, Ma'am.

25 Q. Good morning. So is it fair to say that

1 you were involved in this -- pursuing the robbers from the
2 cell phone store from the beginning of -- when the first
3 nine one one call came in?

4 A. Yes.

5 Q. Okay. And I just want to -- I -- I know
6 you're not going to remember maybe everything that
7 occurred with the information that you were receiving
8 through the dispatcher, but was it fair to say that the
9 information that you received at first was that there was
10 two black men who had robbed the store?

11 A. That's correct.

12 Q. Okay. And then they also gave a
13 description of both of those men, is that right?

14 A. That's correct.

15 Q. And that included one male was described as
16 dark skinned, five four, gray hoodie, blue ripped pants,
17 and a black mask is -- does that sound familiar?

18 A. Yes, Ma'am.

19 Q. Okay. And the other second male was
20 described as being taller, wearing a black shirt with
21 cartoon characters on it, ripped black pants, a black mask
22 and a hat. Is that right?

23 A. Yes, Ma'am.

24 Q. Okay. And you had testified earlier that
25 there had -- was tint on the windows of the car. So when

1 you walked up to this car, you weren't able to determine
2 whether or not these -- this description of the men inside
3 the car matched the description you had been given, right?

4 A. Right. We had to walk much closer to be
5 able to view inside of the vehicle, correct.

6 Q. Okay. Well, there was tint, so you
7 couldn't tell, you know, the colors of things or you know,
8 how tall somebody was or anything, right? I mean, you --
9 you kind of can't have both, right? I mean, either
10 there's tint on the windows and you can't see --

11 A. Right.

12 Q. -- which is why it's illegal or you can
13 see any, you can see the description of the folks, right?

14 A. Right.

15 Q. Okay. And in this case, you testified that
16 there was tint on the windows?

17 A. Yes.

18 Q. Which is one of the reasons why you pulled
19 them over, right?

20 A. Correct.

21 Q. Okay. Or one of the reasons why you are
22 justifying stopping them. So you couldn't see inside the
23 vehicle to see if this -- these descriptions matched what
24 was provided over dispatch, right?

25 A. Right. Until we got much closer to the

1 vehicle and once we -- once we were right up close to the
2 vehicle, we were then able to see --

3 Q. Well --

4 A. -- through the windows.

5 Q. Well -- well in fact, I mean, isn't it fair
6 to say it wasn't until you could open the door that you
7 could see that the descriptions may have matched?

8 A. For the lower half, correct.

9 Q. For the what?

10 A. For their -- for their lower half of their
11 bodies, yes.

12 Q. Okay. Now, so the -- the first nine one
13 one call comes in roughly three o'clock. And -- or I'm
14 sorry, dispatch provides information about the
15 description.

16 A. Uh-huh.

17 Q. And then shortly thereafter they -- you
18 were provided information that they fled on foot, is that
19 correct?

20 A. I believe so, yes.

21 Q. Okay. There was never at any time a
22 description given of any vehicle, is that right?

23 A. There was not, no.

24 Q. And then you were also informed that there
25 was tracking devices on the stolen cell phone, so you --

1 you knew that they were -- dispatch was able to sort of
2 give you an approximate location?

3 A. Yes, Ma'am.

4 Q. All right. Okay. And then you were
5 repeatedly told that the robbers fled on foot?

6 A. Yes.

7 Q. Is that right?

8 A. That's correct.

9 Q. Okay. And there was never a description
10 given of the vehicle, is that --

11 A. There was not

12 Q. -- right? Okay. All right. And at some
13 point, you were notified that the phones were being
14 tracked and they were moving southbound on Broad Street,
15 is that right?

16 A. That's right.

17 Q. And again, there was no flash information
18 of a vehicle, is that right?

19 A. There was not.

20 Q. And in fact, on that clip that we just saw
21 three times I noted that dispatch is telling you they're
22 walking south on Broad Street, they're walking south on
23 Broad Street, they're walking south on Broad Street, is
24 that right?

25 A. Yeah, I don't -- I don't know if that was a

1 dispatcher or a police officer. It -- it was coming over
2 the radio though, yes.

3 Q. Okay. Well, the -- the person who's
4 providing that information, we can -- I -- I don't want to
5 assume, but it seems obvious that the person providing
6 that information is -- is -- is telling you that the
7 trackers are walking south on Broad Street. Is that
8 right?

9 A. That's right. That's what -- yeah.

10 Q. Okay. And while you're getting that
11 information, because you -- you pulled the car over -- I
12 have nineteen seventeen -- you pulled the car over, right?
13 In that clip that we just saw?

14 A. Right.

15 Q. Okay. And while the cars are stationary
16 three times we hear cars are not moving, they're walking
17 south on Broad Street, they're walking south on Broad
18 Street and they're walking south on Broad Street, correct?

19 A. Correct.

20 Q. Okay. But they were not walking or driving
21 on Broad Street, they were stationary, correct?

22 A. Correct.

23 Q. Okay. But despite that, you decide that
24 you were going to check the cars out that were -- that had
25 been stopped at Broad and Venango. Is that right?

1 A. That's right.

2 Q. Now, at some point during this time period,
3 you were also notified that the -- that dispatch notified
4 you that they could be traveling on the subway. Is that
5 right?

6 A. Yeah, I heard that on the -- the video. I
7 don't -- I don't recall it, but yeah, I heard that on the
8 video just now.

9 Q. Okay. So we have -- the cell phones are --
10 either are walking south on Broad Street, or in fact they
11 could be traveling on a subway. Is that right?

12 A. Correct.

13 Q. Okay. But despite that, you still decided
14 to look in all the vehicles that were stationary on Broad
15 and Venango?

16 A. Correct.

17 Q. Okay. Okay. One moment. Now, despite
18 being told repeatedly that -- that the -- that the cell
19 phones -- that the -- that the cell phones or the
20 perpetrators were walking south on Broad Street, you
21 believed that it was actually in a vehicle, you were
22 looking for a vehicle, I think you testified to that. Is
23 that correct?

24 A. Correct, yes, Ma'am.

25 Q. Okay. And what basis did you have for

1 believing it was a vehicle, despite the fact that all
2 information you were getting was that the -- the
3 perpetrators were on foot?

4 A. To go from 101 East Olney to Broad and
5 Venango in seventeen minutes on foot, it just isn't a
6 possibility.

7 Q. How far is that?

8 A. Miles wise, I'm not sure. It -- it's -- it
9 is a good distance.

10 Q. Now, you also received information at some
11 point that one of the suspects may have actually gotten
12 into a SEPTA bus. Is that right?

13 A. Can you say the question again?

14 Q. Did -- at one point, did you get
15 information that one of the suspects could have gotten
16 onto a SEPTA bus?

17 A. I don't recall it. If -- if it's on the
18 notes for the radio, then -- then I would have, but yeah,
19 I don't recall specifically.

20 Q. Okay. Now -- so at the time you create,
21 there's this -- there's this roadblock, for lack of a
22 better term, you -- you did stop these vehicles.

23 A. Correct.

24 Q. Is it fair to say it was a roadblock?

25 A. I blocked the road --

1 Q. Blocked. Okay, good.

2 A. -- with my vehicle.

3 Q. The information that you had was that there
4 was two males on foot and there was a description of both
5 of the men?

6 A. Yes.

7 Q. Is that right? Okay.

8 A. Yes.

9 Q. And when you -- when you start looking into
10 these vehicles one of the things that you said was that
11 this -- the first thing, did you notice if this vehicle
12 that -- that that ended up -- that my client was driving,
13 that it had a tint on it. Is that right?

14 A. Yes.

15 Q. Okay. And that you said there was a
16 temporary fake tag, is that right?

17 A. Correct.

18 Q. Okay. Now that's -- that's not what you
19 were looking for. I mean, that's not why you -- you
20 weren't doing an investigation for tinted windows or a
21 fake tag, correct?

22 A. Correct. We were looking for males from a
23 robbery.

24 Q. Correct. Okay. And you're looking for the
25 males from the robbery and you come upon this car that's

1 got tinted windows in which you cannot see inside because
2 they're tinted, right?

3 A. Correct. Until we get up close to the
4 vehicle. And then you were able to see inside of the
5 vehicles. So at a -- at a --

6 Q. Well, you -- well, I think your testimony
7 was that you were able to see -- I guess you were able to
8 see the figures inside the wind -- inside the car, but it
9 wasn't until you opened the door that you could confirm
10 that the -- that the descriptions matched.

11 A. Correct. So you can -- walking up to the
12 vehicle, you can see the people are in it. You can't see
13 great detail, but when you're closer to the vehicle, even
14 from outside with windows up, you can still see through
15 the tint.

16 So like, even in the screenshot of the video
17 right there that's paused, you can see that the
18 (unintelligible) wearing a blue shirt through that tint.
19 But if you're further back from the vehicle, it's hard to
20 make out faces in the vehicle, clothing in the vehicle.

21 Once you're much closer, it's able -- you're
22 able to see inside of the vehicle.

23 Q. And in this vehicle, there was three people
24 and not two people, correct?

25 A. There was.

1 Q. All right. And your -- one of the things I
2 think that you testified to that drew your attention to
3 them was that they had this laser focus and they were
4 looking straight ahead. Is that right?

5 A. Correct.

6 Q. Okay. And but there wasn't any other
7 further movements, is that right?

8 A. Not that I can recall.

9 Q. All right. They weren't, you know, acting
10 scared in any way, right?

11 A. As far as --

12 Q. Well, I mean, the -- the only thing that
13 you testified that you noticed that these folks were doing
14 was staring straight ahead?

15 A. Right.

16 Q. Okay. All right. But there was nothing
17 else to indicate that these folks had just been involved
18 in a robbery?

19 A. No.

20 Q. Okay. Now, I believe that you -- the --
21 the -- the vehicle was pulled over -- one moment. Now,
22 the vehicles were pulled over at approximately, I think we
23 were using different times here, but I'm going to say
24 nineteen seventeen. Is that right?

25 A. Correct.

1 Q. Okay. And when the vehicles were pulled
2 over during the entire time, those -- those -- I'm sorry,
3 the -- the roadblock is in place, right? You're getting
4 information from dispatch, you're being provided with
5 continuous updates, is that right?

6 A. Yes.

7 Q. All right. And during that time period
8 where these vehicles were stopped, you were being -- as we
9 talked about before you were being told that the vehicle,
10 that -- that the -- that the tracker was still -- or the
11 perpetrators were still walking south. Is that right?

12 A. I believe so.

13 Q. Okay. You were being told that the
14 perpetrators may have gone into a subway stop underneath
15 the area, which would explain the movement. Is that
16 right?

17 A. Potentially. So yeah, it -- they said over
18 the radio. I -- again, I'm not sure who it was that came
19 over --

20 Q. Okay.

21 A. -- and said about the subway

22 Q. And these vehicles were stopped. And
23 Mister -- how long -- how long was the -- was the -- was
24 the roadblock in place for before Mister -- that these
25 three were taken into custody?

1 A. I'm not sure whenever the -- I guess we got
2 him out of the car here --

3 Q. Okay.

4 A. -- at seventeen twenty, and then within a
5 couple minutes after that, I would imagine the -- the road
6 was opened back up. I don't recall specifically.

7 Q. Well, would -- would -- actually twenty
8 thirteen minutes sound --

9 A. Possibly

10 Q. -- accurate? Okay. And finally, just to
11 be clear, you were being notified the entire time that
12 these -- these cars were stationary in front of you, that
13 this tracker was on the move, right?

14 A. It was within that area, yeah. I -- again,
15 I don't --

16 Q. But it was -- I'm sorry, I didn't mean to
17 interrupt you. Go ahead.

18 A. Again, I don't remember specifically who
19 was saying that it was -- it was people walking south or
20 on the move.

21 Q. Okay.

22 A. But yeah, it was on the radio transmissions
23 from listening to this, yes.

24 Q. Okay. So you have a -- you have a -- you
25 have a group of cars that are stopped. They're clearly

1 not moving, and you're getting information from dispatch
2 that the -- that this tracker is on the move, right?

3 A. Right.

4 Q. Okay. One moment

5 MS. CINQUANTO: Your Honor, that's all I have.
6 Thank you.

7 THE COURT: Thank you, Ms. Cinquanto.

8 MS. CINQUANTO: Thank you, Officer.

9 THE WITNESS: Thank you, Ma'am.

10 THE COURT: Mr. Parisi, anything future?

11 MR. PARISI: Just a brief redirect.

12 THE COURT: Yes.

13 REDIRECT EXAMINATION

14 BY MR. PARISI:

15 Q. Officer Strange, radio calls speak for
16 themselves about walking South on Broad Street, but
17 nevertheless, when you arrived to the intersection of
18 Broad and Venango, did you see anyone fitting the
19 description, the flash from the robbery walking south on
20 Broad Street?

21 A. No.

22 Q. And comparing the demeanor and the body
23 language of the defendant and the other two men in this
24 S.U.V. to the other people that were in cars at the
25 intersection, did they stand out to you?

1 A. Yes. Everyone else was wondering what was
2 going on.

3 MR. PARISI: That's all I have, Your Honor.

4 THE COURT: Thank you. Thanks, Officer Strange.

5 THE WITNESS: Thank you, Ma'am.

6 THE COURT: You may step down.

7 THE WITNESS: Thank you, Ma'am.

8 MR. PARISI: Your Honor on the issue of the car
9 stop, I have no additional evidence aside from the things
10 I've already moved in. I'll reference them in my
11 argument.

12 THE COURT: Okay. Thank you very much.

13 MS. CINQUANTO: And --

14 THE COURT: Ms. Cinquanto?

15 MS. CINQUANTO: Well, Your Honor, as -- as we
16 discussed earlier, I would prefer that -- well, I would
17 respectfully request -- strongly request, as the
18 government said, that we do not hold argument today, that
19 we be given the opportunity for supplemental briefing and
20 Your Honor can decide on the briefs or if Your Honor
21 chooses at that point, we could come back for argument.

22 But at this point, based upon the information
23 that I've heard today, especially about the tracker as I
24 am not prepared to make argument, and I would prefer if we
25 could do supplemental briefing and argument if necessary.

1 THE COURT: Thank you, Ms. Cinquanto. Mr.
2 Parisi, your position?

3 MR. PARISI: Just on that. Whatever we want to
4 label it, I have -- I -- I'm not going to sit here and
5 play a half hours' worth of police radio broadcast. I'm
6 not going to play a half hour body cam. The -- the Court
7 has that in evidence.

8 What I would like to do is make some argument if
9 counsel wants to reserve hers, you know, whatever the
10 Court wants to let her do. But I also want to give, Your
11 Honor, some timestamps and specific radio broadcasts. And
12 I -- I've pretty much had with the body cam, the same
13 thing.

14 So I'm -- I -- I'd like an opportunity today to
15 give you a few minutes of my thoughts on these two
16 motions.

17 THE COURT: Ms. Cinquanto, I'm --

18 MS. CINQUANTO: No, I -- I -- I get that, Your
19 Honor. But you know, let's -- let's talk about judicial
20 economy. First of all, we're dealing with -- we -- I was
21 -- I was referring to as in my motion to times that the
22 government and this officer was -- is -- is referring to a
23 different set of times.

24 So I've got to go back and sort of marry all
25 that information up. Having argument today, I -- that's

1 fine. I'll reserve argument and I will file a brief, and
2 then I will request that I get an opportunity for oral
3 argument. That's the way it's going to have to go. I --
4 I would prefer that we just rest out here.

5 We get the transcripts, we file supplemental
6 briefing, Your Honor, can decide on the papers or Your
7 Honor, can ask us to come back for -- for oral argument.
8 But we're going to end up coming back here again.

9 If -- if the government gets to argue now, I'm
10 going to need to respond orally. And that may or may not
11 be necessary once we file more papers that that's --
12 that's -- that's my position. But I will --

13 THE COURT: I'm --

14 MS. CINQUANTO: -- allow them to say whatever,
15 you know

16 THE COURT: I understand your preference, and I
17 believe that there is a way to accommodate what is being
18 argued by both of you and presented as your respective
19 positions. So I will allow argument today, and I will
20 take it from the government, as well as, from defense
21 counsel.

22 You, Ms. Cinquanto, if you choose to, you may
23 reserve it if you so choose, there may be something today
24 that you want to speak on that is obviously at the top of
25 your mind, and -- and you want to go ahead and -- and make

1 that immediate response as to what the government states.

2 However, that will not close argument. I will
3 then allow for what you have requested, Ms. Cinquanto,
4 which is that the transcript be made available that you
5 are allowed to provide, as well as the government is to
6 allow to provide supplemental briefing. And that I will
7 allow -- and we will set a date for supplemental or
8 argument to be heard following today's date.

9 So the argument will not be closed, it will
10 remain open. I will allow argument today to be continued
11 and concluded at the date that I will provide. And in the
12 interim, I will also allow for supplemental briefing to be
13 provided to the Court. Okay?

14 MS. CINQUANTO: Thank you, Your Honor.

15 THE COURT: You're welcome. Yes, with that, I
16 -- well, I can take argument as to this now and -- and we
17 can address this specific motion, and then we can move
18 into the -- the remaining motion to suppress thereafter.

19 MR. PARISI: Yes, Your Honor. Your Honor, the
20 real issue here -- and actually before I get to the issue,
21 I'm going to ask the Court for this motion to suppress and
22 the -- the witnesses for the next to make a -- an explicit
23 credibility finding.

24 And -- and I'd submit that the witnesses have
25 testified credibly and will continue to do so, but I'd ask

1 the Court to make that part of your ruling. But the issue
2 for this car stop is did the police have a reasonable
3 suspicion, a reasonable and articulable suspicion that
4 criminal activity was afoot, and was there a basis to
5 believe that this car was involved in this robbery?

6 What the Third Circuit and Supreme Court tell us
7 is it's a totality evaluation. And in a case like this
8 where there is a broadcast, there's flash description,
9 there's location, we incorporate all of that information
10 known to the police department collectively in, in
11 examining the totality.

12 There's no strict time limits on a stop like
13 this, and it's whether or not the police were diligently
14 pursuing their suspicions. So you know, I know Ms.
15 Cinquanto will -- will have an opportunity to respond
16 today and -- and in the future, but in her written motion,
17 she mischaracterizes some of the times and the information
18 that's provided by police radio.

19 As I said, I'm not going to play it all today.
20 I'm not going to play any of it today actually, but I
21 would like to give the Court some timestamps now within
22 Government's Four, which is the entirety of the radio and
23 nine one one calls, and I'll just bring up the file on the
24 screen.

25 Just so everyone knows, the way the files are

1 labeled begins with the time of the beginning of that
2 particular call or broadcast. So what we have is at three
3 zero two p.m. a file that's labeled O.P.S. zero seven,
4 that's 3SI, the G.P.S. tracking Company reporting, they
5 have an activated tracker.

6 And what they tell the police is that it's
7 moving down the road southeast on Adams Avenue. Three
8 zero three is the first nine one one call from the store.
9 And then at three zero nine we have G.P.S. tracking south
10 on Roosevelt Boulevard passing, Rising Sun. And there is
11 a literal and explicit mention of a vehicle.

12 At three twelve, there's another broadcast south
13 on the Boulevard at Wyoming towards North Broad Street,
14 and then onto Broad from Hunting Park and South on Broad
15 near (unintelligible). And again, a vehicle is mentioned.

16 Three fourteen, there's Bristol and the
17 Boulevard and Hunting Park in Carlisle Broadcast. Three
18 fifteen, Hunting Park in Carlisle is again broadcast, and
19 then now South at Broad at Jerome. And again, at three
20 fifteen there's a mention of a vehicle.

21 Three sixteen, another mention of a vehicle over
22 police radio Broad and Butler. Three seventeen, there's
23 an extensive broadcast, and this is where there's --
24 there's competing broadcasts. Someone says someone may
25 have gotten on a bus at a bus stop.

1 But then immediately thereafter, the G.P.S.
2 tracking is broadcast out again as south on Broad coming
3 up to Venango, followed by stationary, by the Zion Baptist
4 Church, which is right at that intersection.

5 And then we hear some broadcasts that they may
6 be on foot between Venango and Lennox, which is just north
7 of Venango, as well as south on Broad and crossing Broad.
8 Three seventeen and forty-three seconds, there's another
9 mention of vehicles and then a police officer broadcast.
10 We have multiple vehicles at Broad and Venango.

11 And then flipping over to the body cam we just
12 played at three eighteen, that's when Officers Strange and
13 Cappellano arrive at that intersection. At three nineteen
14 zero seven, there's another broadcast where an officer
15 says, we're looking for a vehicle, we have traffic
16 stopped.

17 At three nineteen and thirty-five seconds,
18 there's another broadcast, there's still stationary north
19 of Venango on Broad. We've got a male stop that matches
20 the flash. And the body cam shows us that by three twenty
21 they're pulling Keon Vincent and Keante Curtis (phonetic
22 spelling) out.

23 So in the span of seventeen minutes, they --
24 they have a G.P.S. tracker stolen in a robbery that goes
25 approximately four miles by my calculations. They know

1 it's a vehicle. It's repeatedly broadcast as a vehicle.
2 They get to this intersection. And I know counsel very
3 much wants this to be a -- a roadblock.

4 Even if it is, they don't win, but it's not a
5 roadblock, it's a thirty second stoppage of traffic by the
6 police car as we saw on the, on the body cam. And within
7 two minutes, they have identified the defendant and his
8 co-conspirators as the people involved in this robbery.

9 And you heard, there were problems with the car
10 and these guys were acting completely differently from
11 everybody else, which as the Court can imagine, there were
12 a lot of people rubbernecking ten police cars in that
13 intersection, except for the defendant and his co-
14 conspirators

15 That's what I call reasonable suspicion to stop
16 that car. And it all happened within two minutes of their
17 arrival. Even if it's a roadblock, it's -- we still a win
18 because under the analysis in Brown v. Texas, which I
19 cited in my response, we look at the gravity of the public
20 concerns served by the seizure, the degree to which a
21 seizure advances the public interests and the severity of
22 the interference with public liberty.

23 What we're talking about here is a two-minute
24 delay in traffic at most from when they arrive at the
25 intersection until they have identified the car and

1 they're pulling them out. It's broadcast as a gunpoint
2 robbery, which is a severe violent crime.

3 And that brief delay of traffic for two minutes
4 while there's a red light for about half of it, is a
5 reasonable police action to investigate their suspicions.
6 So whether it's a reasonable suspicion standard or the --
7 the analysis as if this is a roadblock, which I'd submit
8 to the Court, it's not, that's more of a D.U.I. checkpoint
9 type situation.

10 But either way, the police knew they were
11 looking for a car, they knew who they were looking for,
12 and they found it quickly. There was no constitutional
13 violation here. I -- I don't know that I'll need
14 supplemental briefing on that, but if -- if necessary, I
15 will do so, Your Honor

16 THE COURT: I have one question for you.

17 MR. PARISI: Yes, Your Honor.

18 THE COURT: Do you happen to know or have any
19 information as to how long that light cycles at that
20 intersection?

21 MR. PARISI: I don't, Your Honor.

22 THE COURT: Okay. Thank you.

23 MR. PARISI: It -- it may be something that's
24 visible in the body cam, but that's not something I
25 checked.

1 THE COURT: That's fine. Thank you

2 MS. CINQUANTO: Your Honor, I -- I will submit
3 briefing and I will ask for argument if Your Honor
4 requires it, but I think this is -- this is important.
5 The government says, well, there was a mention of a
6 vehicle, a mention of a vehicle.

7 Let's be very clear, when I -- in my motion with
8 -- to Your Honor I actually set forth exactly what
9 (unintelligible) mention of the vehicle is. Fifteen -- at
10 fifteen fifteen, dispatch informed responding units that
11 the phones were tracked, moving southbound on Broad Street
12 near Jerome Street.

13 Dispatch confirmed again, there was no
14 description of a vehicle. At fifteen sixteen, dispatch
15 confirmed again, there was no flash information for a
16 vehicle, and the phones were continued to be tracked down
17 Broad Street.

18 Fifteen seventeen dispatch was informed that
19 video surveillance showed a black male matching the
20 description of the perpetrators had left the area on a
21 SEPTA bus. Meanwhile on the same radio call, another
22 responding unit, which I believe would be this officer
23 here, was at Broad and Venango and said, hey, you know,
24 we're going to check these cars out.

25 Still, other responding units informed dispatch,

1 the perpetrators were traveling on foot. Officers are
2 speculating at this time on this radio call that the
3 perpetrators were traveling on a subway. Fifteen
4 seventeen, responding units informed dispatch that they
5 had wall to wall vehicles at Broad and Venango.

6 At fifteen nineteen, so that's when they do the
7 road stop -- they do the roadblock. A roadblock is a
8 roadblock. The man that the -- the cruiser was in front
9 of the cars that were trying to move, that is a roadblock.
10 At fifteen -- so that's fifteen seventeen.

11 At fifteen nineteen, again they're -- they're
12 informed that the perpetrators were walking southbound.
13 They talk about blocking the -- the -- the Broad and
14 Venango, they're looking in cars. And then we don't have
15 until fifteen thirty.

16 Fifteen thirty is when officers informed
17 dispatch they had stopped a vehicle at North Broad and
18 West Venango Street and that a male was apprehended for
19 identification.

20 So when the government says that there's a
21 mention of a vehicle, the mention of the vehicle is there
22 is no vehicle or there is no description of the vehicle.
23 And I -- it's -- it's, it's very tedious, but I would
24 encourage the Court and that maybe I will -- what I will
25 do in my supplemental briefing is sort of excise some of

1 these calls.

2 But if you listen to it, it's not like the
3 government is sort of inferring that, oh, there's --
4 there's, you know, there's talk of a vehicle. The only
5 talk of a vehicle is there is no vehicle. That's the
6 point.

7 So I'm going -- so what I -- what I will do,
8 Your Honor, is I will flesh this out more. I will give
9 you complete quotes from each of these calls, but the --
10 there is no information of a vehicle and for the
11 government to sort of say that they mentioned a vehicle,
12 it's really a bit disingenuous because again, they're --
13 they're just saying that there is a mention of the vehicle
14 to say that there wasn't a vehicle. Thank you.

15 THE COURT: Thank you.

16 MR. PARISI: Just to respond to that point, Your
17 Honor.

18 THE COURT: Yes.

19 MR. PARISI: That's not accurate. The calls
20 speak for themselves. The broadcasts speak for
21 themselves. And what you'll hear when you listen to these
22 is officers repeatedly asking, do we have a flash on the
23 vehicle, a description of the vehicle.

24 And what is told the there is no vehicle, what
25 that is, is the victims in the store didn't see a vehicle.

1 What the victims reported is they left on foot, we don't
2 know if they got in a vehicle. All of the broadcasts,
3 it's very clear they're looking for a car.

4 The speed, the locations, it's -- it's obvious.
5 And they are talking about a vehicle. The there is no
6 vehicle purely refers to did the victim see a vehicle and
7 they did not. So that's who says there's no vehicle.

8 We don't know. That's the only thing I want to
9 say to that. Otherwise, I -- I'll rest on my submissions.

10 THE COURT: Thank you, Counsel.

11 And as I stated a moment ago, I will allow for
12 supplemental argument to be made as well as briefing to be
13 received on this once the transcript is available and --
14 and based on defense's request and also based on the
15 government's response and desire to argue the motion
16 today.

17 And so in turn, the government will also have
18 the opportunity to further supplement the argument at that
19 time, as well as, provide supplemental briefing and
20 response to the defense's submission. And we will provide
21 a date for that at the conclusion of the proceedings.

22 What I will do is we've been moving forward with
23 the motions. We are at twelve twenty-one. I would
24 suggest to take a brief recess for about ten to fifteen
25 minutes and come back at twelve thirty-five and we'll deal

1 with the remaining motion to suppress at that point in
2 time, and then we can conclude for the day.

3 So unless there is any reason that something
4 needs to be addressed before that, we will recess now and
5 return back and -- at twelve thirty-five.

6 MS. CINQUANTO: Thank you, Your Honor.

7 MR. PARISI: Thank you.

8 THE COURT: Thank you.

9 (Off the record 12:22:17 p.m. to 12:39:23

10 COURT CLERK: All rise. Court is back in
11 session.

12 THE COURT: Thank you. You all may be seated.
13 Okay. I am ready to hear from counsel on the remaining
14 outstanding motion to suppress, which is, I believe,
15 E.C.F. one four five, if I'm correct. Sorry, One four
16 three.

17 MS. CINQUANTO: Yes, Your Honor.

18 THE COURT: Correct. Yes. So you may proceed,
19 Ms. Cinquanto.

20 MS. CINQUANTO: Okay. Your Honor, the defense
21 moves to suppress the statement that was made by Mr. Jones
22 on Jan -- on the date of his arrest, which occurred -- one
23 moment, Your Honor. On January 24th of 2023, because it
24 was involuntary.

25 There was a custodial interrogation that led --

1 excuse me. The custodial interrogation that led to the
2 statement began approximately fourteen hours after Mr.
3 Jones was arrested. In the interim, he was held in small
4 -- held in isolation in a small windowless room, where he
5 was deprived of food and drink for the first ten hours and
6 fifty minutes.

7 During his ninety-minute interrogation, Mr.
8 Jones was aggressively taunted, berated, and belittled,
9 and the detective suggested that he could be exposed to
10 the death penalty, even though there was a moratorium on
11 the death penalty in Pennsylvania at the time.

12 For these reasons, Mr. Jones respectfully
13 submits that under the circumstances under which the
14 statement was obtained is involuntary. The statement was
15 not voluntary and it should be suppressed. Thank you.

16 THE COURT: Thank you, Ms. Cinquanto. Mr.
17 Parisi?

18 MR. PARISI: Your Honor, I have three witnesses.
19 The first is Detective Christian Chavez. And while we're
20 getting Detective Chavez, we do have a stipulation. The
21 stipulation is that prior to the statement at issue, the
22 Defendant had previously been convicted four times for
23 possession with intent to distribute controlled
24 substances, one's for a violation of Uniform Firearms Act,
25 and one's for a charge of soliciting prostitutes.

1 And then Detective Chavez is here, and I'll have
2 him take the witness stand.

3 THE COURT: Thank you. The solicitation, or
4 rather, sorry, the stipulation is accepted and into the
5 record. I appreciate that. Good morning.

6 COURT CLERK: Please raise your right hand. And
7 do you swear or affirm the testimony you shall give to the
8 Court is the truth, the whole truth and nothing but the
9 truth, so help you God, or you do so affirm?

10 MR. CHAVEZ: I do.

11 WITNESS; CHRISTOPHER CHAVEZ; Sworn

12 COURT CLERK: Please state and spell your name.

13 THE WITNESS: Detective Christian Chavez, C-H-A-
14 V-E-Z, Badge eight one eight. Currently assigned to
15 Northwest detectives, Philadelphia.

16 THE COURT: Thank you. Good afternoon,
17 Detective Chavez.

18 THE WITNESS: Good afternoon.

19 THE COURT: Thank you. You're welcome to
20 proceed.

21 MR. PARISI: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MR. PARISI:

24 Q. Detective Chavez, how long have you been a
25 police officer?

1 A. Since 2011.

2 Q. And how long have you been a detective at
3 Northwest Detectives?

4 A. Since 2017.

5 Q. All right. I want to turn your attention
6 back to August 22nd of 2022. Were you assigned to
7 investigate the robbery of a Metro P.C.S. store at 101
8 East Olney Avenue in Philadelphia?

9 A. That's correct.

10 Q. As part of that investigation, did patrol
11 units stop a car driven by the Defendant, Chihean Jones?

12 A. Yes.

13 Q. And was the Defendant brought to your
14 office for questioning?

15 A. He was.

16 Q. Did you have an opportunity to speak with
17 him and ultimately interview him about that incident?

18 A. Yes. He was interrogated at Northwest
19 Detectives, 5960 North Broad Street. Interrogated and
20 mirandized by myself and Detective Bransfield.

21 Q. Okay. When you met with the Defendant, did
22 you have an opportunity to observe his appearance and his
23 demeanor?

24 A. I did.

25 Q. Have you previously encountered individuals

1 who are under the influence of drugs or alcohol?

2 A. Yes.

3 Q. And how about individuals suffering from
4 mental illness?

5 A. Yes.

6 Q. Did you see anything about the Defendant,
7 Chihean Jones, that led you to believe he was under the
8 influence -- excuse me, under the influence of anything or
9 suffering from any kind of mental illness?

10 A. No.

11 Q. Did you see any sort of physical
12 infirmities or injuries that -- that might have impacted
13 his ability to understand you?

14 A. No.

15 Q. When you spoke with him, did he agree to
16 speak with you?

17 A. Yes.

18 Q. And were his answers to your questions
19 appropriate to the -- to the questions, they -- they --
20 were they lucid and -- and easy to follow?

21 A. Yes.

22 Q. Okay. Ultimately, was there a video
23 statement taken from the Defendant?

24 A. There was.

25 Q. And I'm going to show you what's already

1 admitted.

2 MR. PARISI: If I may publish, Your Honor,
3 Government's Three.

4 THE COURT: You may.

5 BY MR. PARISI: (Cont'g.)

6 Q. Detective Chavez, just looking at the
7 screen there, is that the Defendant, Chihean Jones, on
8 August 22nd at Northwest Detective Division when you
9 interviewed him?

10 A. It is.

11 Q. All right.

12 MR. PARISI: I'm just going to hit play here, if
13 I may, Your Honor.

14 THE COURT: You may.

15 (Audio being played)

16 BY MR. PARISI: (Cont'g.)

17 Q. All right. Detective Chavez, just so we
18 have a clear record here. Was it Detective Bransfield
19 that actually read the Miranda warnings?

20 A. That's correct.

21 Q. And were you filming the interview?

22 A. I was.

23 MR. PARISI: Your Honor, these are all questions
24 I have for the witness.

25 THE COURT: Thank you. Any questions, Ms.

1 Cinquanto?

2 CROSS EXAMINATION

3 BY MS. CINQUANTO:

4 Q. Detective Chavez, were you present when Mr.
5 Jones was interrogated on January 24th of 2023?

6 A. January 24th, no.

7 Q. Okay. Well, I just have a -- just one
8 question about -- about that interrogation. During that
9 interrogation on August 22nd, did Mr. Jones tell you that
10 he was simply a hack driver for the two men who committed
11 the robbery at the cell phone store?

12 A. I believe he did make mention of that, yes.

13 Q. All right. Thank you.

14 MS. CINQUANTO: I've nothing further.

15 THE COURT: Thank you, Ms. Cinquanto.

16 MR. PARISI: Nothing additional, Your Honor.

17 THE COURT: Thank you. Mr. Parisi -- Detective,
18 thank you.

19 THE WITNESS: Okay.

20 THE COURT: You can step down. Have a good day.

21 THE WITNESS: Thank you so much, guys. Thanks.

22 MR. PARISI: Just two more. Your Honor, the
23 Government's next witness is Officer Eric Novasak.

24 COURT CLERK: Please raise your right hand. You
25 do swear and/or affirm the testimony you shall give to the

1 Court should be the truth, the whole truth and nothing but
2 the truth, so help you God?

3 MR. NOVASAK: Yes.

4 COURT CLERK: You do so affirm?

5 MR. NOVASAK: Yes.

6 WITNESS; ERIC NOVASAK; Sworn

7 COURT CLERK: Please state and spell your name
8 for the record.

9 THE WITNESS: Officer Eric Novasak, E-R-I-C,
10 last name, N-O-V-A-S-A-K, Batch number Thirty-four eighty-
11 eight and I'm assigned to the 15th District.

12 THE COURT: Good afternoon, officer. You may be
13 seated.

14 THE WITNESS: Thank you.

15 THE COURT: Thank you. Mr. Parisi.

16 MR. PARISI: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. PARISI: (Cont'g.)

19 Q. Officer Novasak, how long have you been a
20 police officer?

21 A. In my eighth year.

22 Q. And have you been in the 15th the whole
23 time?

24 A. Yes.

25 Q. I want to turn your attention back to

1 January 24th of 2023. Do you know if you were working
2 that day?

3 A. I was.

4 Q. And were you working a particular shift?

5 A. I believe I was four to twelve.

6 Q. Okay. Were you working with a partner that
7 day?

8 A. Officer Walsh, W-A-L-S-H. Badge is Five
9 six four five.

10 Q. On January 24th, when you were working, did
11 you receive a patrol alert for the Defendant, Chihean
12 Jones?

13 A. Yes.

14 Q. Had you previously known the Defendant
15 prior to January 24th?

16 A. Not his name, but I -- I was aware of him,
17 yes.

18 Q. And how is it you were aware of him?

19 A. He's -- he's usually on the 5200 Block of
20 Hawthorne. I patrolled that area quite frequently in my
21 career, and he was usually out there sitting in a vehicle
22 for the most part of the day.

23 Q. And was one of those vehicles that you were
24 familiar with a Chevrolet Suburban?

25 A. Yes.

1 Q. All right. So on January 24th when you
2 received the patroller, did it -- did it reference the
3 Defendant specifically as well as the car?

4 A. So the patroller mentioned the Defendant's
5 name and the vehicle. And then it also said the vehicle
6 frequents a few areas in the 15th District, and I believe
7 one of them on there said Hawthorne Street.

8 And once I saw it, I was like, I believe that
9 car is going to be parked on 5200 Hawthorne with him
10 potentially in it. And we drove around the corner almost
11 immediately and found the vehicle with him seated in it.

12 Q. So was the Defendant in the driver's seat?

13 A. Yes.

14 Q. And was there a woman in the car as well?

15 A. Yes.

16 Q. Did you speak to the Defendant? Did you
17 approach the car and speak to him at all?

18 A. Yeah, I approached the driver's side of the
19 vehicle, told him to put his hands on the steering wheel.
20 As I approached him, when I seen his hands on the steering
21 wheel, my partner told him to shut the car off.

22 I asked him for his name. He said Chihean
23 Jones, had him lean forward, put his hands behind his
24 back, cuffed him and brought him out of the vehicle.

25 Q. Did you put him into your car?

1 A. Yes.

2 Q. And then did you transport the Defendant
3 from that location on Hawthorne Street down to the
4 homicide division?

5 A. Yes.

6 Q. From the time -- putting aside him telling
7 you his name, but from the time you handcuffed the
8 Defendant until you brought him to the homicide division,
9 did you ask the Defendant any questions?

10 A. No. Other than filling out biographical
11 information for the arrest reports, no.

12 Q. Did he proffer any statements to you?

13 A. Nothing incriminating.

14 Q. And did you provide the Defendant his
15 Miranda warnings for any reason?

16 A. No.

17 Q. And during the transport, the actual drive,
18 did the Defendant speak at all?

19 A. There was probably some conversation. Not
20 to my knowledge I remember anything. It was a pretty
21 quiet ride.

22 Q. And after you dropped the Defendant at the
23 homicide unit, did you -- well, let me ask you this. Did
24 you actually place him into an interrogation room at
25 homicide?

1 A. Yes, I believe we walked him in, up the
2 elevator, onto the homicide floor and into their
3 interrogation rooms.

4 Q. And just so we have some sort of time
5 stamps on all of this. Did you find the Defendant sitting
6 on Hawthorne Street approximately six p.m. on the 24th?

7 A. Yes.

8 Q. And then whatever the -- the length of time
9 it is to drive down to homicide, twenty or thirty minutes
10 or so. Is that a fair estimate?

11 A. Yeah. The whole encounter, probably around
12 an hour.

13 Q. Okay. After you dropped the Defendant at
14 homicide, did you have anything else to do with him or
15 this investigation?

16 A. I got interviewed with the homicide
17 detectives.

18 Q. Okay. But how about this? Did you -- did
19 you interact with the Defendant in any way?

20 A. No. Other than checking him in and his
21 property, no.

22 Q. Okay.

23 MR. PARISI: That's all I have, Your Honor.

24 THE COURT: Thank you, Mr. Parisi. Ms.
25 Cinquanto.

1 MS. CINQUANTO: Just -- just briefly.

2 CROSS EXAMINATION

3 BY MS. CINQUANTO:

4 Q. Officer, so it's safe to say he was taken
5 into custody at about six p.m. on January 24th, 2023,
6 correct?

7 A. Approximately.

8 MS. CINQUANTO: I've no further questions.

9 THE COURT: Thank you, Ms. Cinquanto. Nothing
10 further for you.

11 THE WITNESS: Thank you.

12 THE COURT: Thank you very much.

13 MR. PARISI: Thank you. Your Honor, Detective
14 John Bartol.

15 COURT CLERK: Please raise your right hand. Do
16 you swear or affirm that the testimony you shall give the
17 Court should be the truth, the whole truth and nothing but
18 the truth, so help you God or you do so affirm?

19 MR. BARTOL: Yes, I do.

20 WITNESS; JOHN BARTOL; Sworn

21 COURT CLERK: Please state and spell your name
22 for the record.

23 THE WITNESS: Detective John Bartol, B-A-R-T-O-
24 L. Batch Nine one zero five.

25 THE COURT: Good afternoon, Detective.

1 THE WITNESS: Good afternoon, Your Honor.

2 THE COURT: You may be seated.

3 MR. PARISI: May I proceed, Your Honor?

4 THE COURT: Yes, you may.

5 MR. PARISI: Thank you.

6 DIRECT EXAMINATION

7 BY MR. PARISI:

8 Q. Detective Bartol, how long have you been a
9 police officer?

10 A. Thirty years.

11 Q. And you're assigned to the homicide unit?

12 A. I am.

13 Q. How long have you been with homicide?

14 A. Since May of 2013.

15 Q. All right. I want to focus your attention
16 in on a homicide that occurred on January 17th of 2023 on
17 Torresdale Avenue. The victim was Sivaram Patro (phonetic
18 spelling). Were you assigned to investigate that
19 homicide?

20 A. I was.

21 Q. And as a result of your investigation, did
22 you identify the Defendant, Chihean Jones, as a suspect in
23 that shooting?

24 A. I did.

25 Q. Did you issue a patrol alert for -- to

1 bring the Defendant in for questioning?

2 A. I did.

3 Q. And on January 24th of 2023, did patrol
4 officers contact you or the homicide division to tell you
5 that they'd found the Defendant?

6 A. They did.

7 Q. Was the Defendant placed into an interview
8 room at the homicide unit?

9 A. He was.

10 Q. And was that interview room G, if you
11 recall?

12 A. I believe it was.

13 Q. Do you know roughly what time the Defendant
14 was placed into the -- the interview room?

15 A. Sometime around seven thirty p.m.

16 Q. And when the Defendant was placed into the
17 interview room, was a recording system activated?

18 A. Yes, it was.

19 Q. And did that run the entire time the
20 Defendant was in that room?

21 A. It did.

22 Q. Does that include both audio and video?

23 A. It does.

24 Q. Have you reviewed the entirety of that
25 video?

1 A. I have.

2 Q. And did it fairly and accurately capture
3 the interview and the Defendant's time in the room?

4 A. It did.

5 Q. Prior to the Defendant being placed into
6 that room, was he questioned by you or any other homicide
7 detectives about that crime?

8 A. No, he was not.

9 Q. And did you speak with the Defendant for
10 any reason before you began your interview?

11 A. No.

12 Q. All right. Do you recall approximately
13 when you began your interview with the Defendant?

14 A. Sometime around eight thirty a.m. on the
15 25th.

16 Q. So the following day?

17 A. The following morning, yes.

18 Q. So between the time, we'll call it roughly
19 seven thirty on the 24th and when you began your interview
20 on the 25th, were you doing things in -- in this
21 investigation?

22 A. I was.

23 Q. Were you interviewing other witnesses?

24 A. I was.

25 Q. Were you speaking with the district

1 attorney's office?

2 A. I was.

3 Q. And did those activities keep you up for a
4 good portion of the night?

5 A. It did.

6 Q. At some point, did you take a break and
7 actually go home and get a shower and catch a nap?

8 A. I did.

9 Q. All right. So let's now focus in the next
10 day, the 25th, when you went into the interview room with
11 the Defendant, did you have an opportunity to observe his
12 demeanor?

13 A. I did.

14 Q. Prior to this interview, in your career,
15 have you encountered people who were under the influence
16 of drugs and alcohol?

17 A. I have.

18 Q. And have you encountered people who were
19 suffering from a mental illness of some sort?

20 A. I have.

21 Q. When you interviewed the Defendant, when
22 you observed him, did you see anything that led you to
23 believe he was under the influence of any drugs or
24 alcohol?

25 A. I did not.

1 Q. And how about any indicators to you that he
2 was suffering from any kind of mental disease or defect?

3 A. I did not see any.

4 Q. And then just talking about his physical
5 appearance, did the Defendant appear to be in -- in good
6 health to you?

7 A. He did.

8 Q. Did you notice any injuries or anything
9 else that was wrong with his physical person?

10 A. I did not.

11 Q. As part of your interview with the
12 Defendant, did you ask him if he spoke and understood
13 English?

14 A. I did.

15 Q. And what did he tell you?

16 A. He did.

17 Q. Did you also provide the Defendant with his
18 Miranda warnings before you began questioning him?

19 A. Yes, I did.

20 Q. And how did you do that?

21 A. Off the standard police interrogation card,
22 75 dash Miscellaneous Three.

23 Q. Did the Defendant tell you that he
24 understood those warnings?

25 A. He did.

1 Q. And -- and based on your entire experience
2 as a police officer and speaking with individuals, did you
3 believe that the Defendant actually understood those
4 warnings?

5 A. Definitely, yes.

6 MR. PARISI: I'm going to bring up what's
7 admitted, Your Honor, as Government's One.

8 BY MR. PARISI: (Cont'g.)

9 Q. And before I hit play here, Detective
10 Bartol, you can see it there. That's the big screen up in
11 front of you. Is this interview room G at the homicide
12 division?

13 A. It is.

14 Q. And is that the Defendant sitting in the
15 chair there?

16 A. It is.

17 Q. And just the timestamp is January 24th,
18 2023, at approximately nineteen thirty-one hours. Is that
19 seven thirty-one p.m.?

20 A. Correct.

21 Q. Okay. You mentioned you didn't speak with
22 the Defendant until the next morning, so I'm going to fast
23 forward to that portion. But in the interim, was the
24 Defendant given food and water or something to drink?

25 A. Yes.

1 Q. Was he also given bathroom breaks between
2 the time he was placed in the room and you interviewed
3 him?

4 A. He was.

5 MR. PARISI: All right, Your Honor, just for the
6 record, I'm going to jump ahead to the timestamp, or the
7 runtime on the video is approximately thirteen twenty.
8 And the timestamp is January 25th and this is eight fifty-
9 one a.m. You see that there, Detective Bartol?

10 A. I do.

11 Q. All right. And before I hit play, is there
12 a sandwich and a drink on the table there?

13 A. Yes, I believe there's two sandwiches.

14 Q. Okay.

15 MR. PARISI: Your Honor, with your permission,
16 I'll just hit play here.

17 THE COURT: That is fine. You may.

18 BY MR. PARISI: (Cont'g.)

19 Q. All right. Before we get into the -- the
20 audio portion here, just so we have a good record, the --
21 the detective on the left-hand side, the larger man, is
22 that Detective Matt Farley?

23 A. That is, yes.

24 Q. And then is that you in the black shirt
25 with your back to the camera right there?

1 A. Yes.

2 Q. Okay. I'll keep playing here.

3 (Video playing)

4 BY MR. PARISI: (Cont'g.)

5 Q. Detective Bartol, I'm going to pause it
6 here just so we have a record. It's eight fifty-five a.m.
7 roughly on the video. We just watched a few minutes of --
8 of the beginning of your interview, and I want to focus
9 first on the Defendant's demeanor.

10 Did -- did he maintain this demeanor throughout
11 the course of the whole interview?

12 A. Yes, for the most part, yes.

13 Q. And -- and was the interview in its
14 entirety, when you were speaking with him approximately
15 ninety minutes long, to the best of your recollection.

16 A. Yes, I think it was eight fifty-two, like
17 ten twenty-two. And then the summary was, like twenty
18 minutes, half hour later --

19 Q. Right.

20 A. -- for a couple minutes.

21 Q. So you're -- the -- the period of time
22 where you're speaking to the Defendant as you are here was
23 -- was roughly, you said, until about ten twenty or so and
24 then you went out and did you prepare a written summary of
25 what happened?

1 A. Detective Farley did.

2 Q. Okay. And throughout the time you spoke
3 with the Defendant, was he more or less -- was his
4 demeanor more or less like we've just observed?

5 A. It was.

6 Q. Did he ever start crying or yelling,
7 anything like that?

8 A. He did not.

9 MR. PARISI: Your Honor, I'm obviously not going
10 to play the full video for time constraints.

11 THE COURT: Yes.

12 BY MR. PARISI: (Cont'g.)

13 Q. But what I'd like to do is, I'll skip ahead
14 here. Detective Bartol, you mentioned Detective Farley
15 prepared a written statement. Was that a summary of
16 everything that was discussed in the -- the -- the verbal
17 interview?

18 A. Correct.

19 Q. Did you and Detective Farley then bring
20 that into the Defendant afterwards to review?

21 A. We did.

22 Q. And was that also captured on the video?

23 A. It was.

24 Q. And did Detective Farley actually read that
25 to the Defendant?

1 A. He did.

2 Q. Did you and Detective Farley ask the
3 Defendant if he agreed with that summary of the interview?

4 A. We did.

5 Q. And did he ultimately sign and date and
6 time -- put a time on that written interview?

7 A. He did.

8 MR. PARISI: All right. Your Honor, I'm going
9 to jump ahead to the runtime of fifteen twenty-five or
10 fifteen twenty-eight -- four, we'll call it.

11 BY MR. PARISI: (Cont'g.)

12 Q. Detective Bartol, it's -- the timestamp is
13 now approximately ten fifty-five. Is that correct?

14 A. Correct.

15 Q. Is that, again the Defendant's still
16 sitting there in the chair?

17 A. It is, yes.

18 Q. He still -- still have two sandwiches?

19 A. Yes, there are.

20 Q. All right.

21 (Video playing)

22 BY MR. PARISI: (Cont'g.)

23 Q. All right, Detective Bartol, the -- the
24 written summary, let me show you Government's Two up on
25 the screen. Detective Bartol, is that the activity sheet,

1 the written summary that the Defendant reviewed there in
2 the video we just watched?

3 A. It is.

4 Q. And scrolling down to the bottom, is that
5 the Defendant's signature with the -- the date and time?

6 A. It is.

7 Q. And then also there was a correction we
8 heard the Defendant make. Was that noted by Detective
9 Farley here, where he changed two weeks to three weeks?

10 A. Correct.

11 Q. And did Detective Farley asked the
12 Defendant to also sign a police photograph of Keon
13 Vincent?

14 A. He did.

15 Q. Did the Defendant refuse to do so?

16 A. He did.

17 MR. PARISI: Your Honor, those are all the
18 questions I have for Detective Bartol.

19 THE COURT: Thank you, Mr. Parisi. Ms.
20 Cinquanto.

21 MS. CINQUANTO: (unintelligible)

22 THE COURT: Yes.

23 CROSS EXAMINATION

24 BY MS. CINQUANTO:

25 Q. Good afternoon, Detective.

1 A. Good afternoon.

2 Q. So Detective, we've already established
3 that Mr. Jones was arrested by, I believe it was Officer
4 Chavez and Walsh at approximately six p.m. Does that --

5 A. Sometime at or around that time, yes.

6 Q. Okay. And he, at that time, was placed in
7 a -- he was brought down to the homicide unit. Is that
8 right?

9 A. Correct.

10 Q. And he was placed in an interrogation room?

11 A. Yes.

12 Q. And that interrogation room was small. Is
13 that right?

14 A. It was the size on the picture.

15 Q. Okay. It's approximately six feet by six
16 feet. Is that fair to say?

17 A. I'm not sure. I think it might be a little
18 bit bigger than that.

19 Q. Well, how big do you think it is?

20 A. It's the size of that picture.

21 Q. I mean, look, I -- I'm not there, so -- and
22 you were there for a number of hours. Can -- can you give
23 us an approximation? Do you think it's seven feet by
24 seven feet or --?

25 A. I'm not sure what exact measurements.

1 Q. Okay. Well, my -- I -- I'm looking at that
2 and I believe it's about five feet by five feet. Maybe
3 six feet by six feet. Is that fair to say?

4 A. I wouldn't say that, because Mr. Jones is
5 about five eight, almost six feet. He was laying on the
6 floor. And some of these pictures, you can see them
7 there. There's still some more room --

8 Q. Sure.

9 A. You know, so --

10 Q. It's not your question. I'm just -- I'm
11 just curious.

12 A. It's -- it's bigger than six by six.

13 Q. Seven by seven?

14 A. Could be that. Seven by eight. Eight by
15 eight.

16 Q. Okay. But --

17 A. Nine by eight.

18 Q. That's okay. But approximately in that
19 range. Is that right?

20 A. Yes.

21 Q. And we can also tell from there that
22 there's no windows in that room. Is that correct?

23 A. Correct.

24 Q. All right. And when he was in there, the
25 door was locked. Is that correct?

1 A. Yes.

2 Q. All right. Now when he -- he remained
3 locked in that room without any food or drink or offer for
4 the next three hours. Is that right?

5 A. Correct.

6 Q. Okay. Now prior to your -- let -- let me
7 -- let me go back again. When you first -- when he was
8 first placed in that room, there's no information that any
9 officers have about the last time he had eaten or had a
10 drink prior to seven thirty p.m. on January 24th. Is that
11 right?

12 A. Repeat that, please.

13 Q. Prior to his being placed in that room, no
14 one had -- none of the law enforcement had any idea how
15 long it had been before he had eaten and drinking before
16 that, right?

17 A. I don't know that.

18 Q. Okay. So -- so he's in this room. He gets
19 in there about seven thirty p.m., correct?

20 A. Sometime after about that, yes.

21 Q. Okay. And prior to being placed in the
22 room or as soon as he was placed in the room, he wasn't
23 told why he was being arrested, correct?

24 A. By who?

25 Q. By anybody.

1 A. I don't know what the police officer told
2 him.

3 Q. Okay. Well, you had to inform him, or you
4 did inform him of the reason why he was arrested at about
5 eight thirty the next morning, correct?

6 A. I did.

7 Q. Okay. Now he remains in that room without
8 food or drink for the next three hours. Is that right?

9 A. Correct.

10 Q. All right. And at about ten thirty p.m. he
11 requests to use the bathroom?

12 A. Yes.

13 Q. All right. And he was returned to the room
14 at about ten thirty-two p.m. about three minutes later.
15 Is that right?

16 A. Correct.

17 Q. And after his return, he remained in that
18 room for eight more hours without any food or drink or
19 offer thereof, correct?

20 A. Correct.

21 Q. All right. Now six thirty the next
22 morning. So that's roughly twelve hours after his arrest
23 and eleven hours after he's placed in that room. He was
24 given a glass of water and two sandwiches. Is that right?

25 A. Correct.

1 Q. Okay. And at seven forty-one, he was
2 allowed to use that, the bathroom again, and he returned
3 to the room about four minutes later. Is that right?

4 A. Yes.

5 Q. And again, the door was locked behind him.
6 Is that correct?

7 A. Correct.

8 Q. Now at eight fifty-one, approximately eight
9 fifty-one p. -- a.m., which was fourteen hours after his
10 arrest and thirteen hours after being locked in the
11 interrogation room, that's when you started your
12 interrogation?

13 A. Roughly, yes.

14 Q. Okay. Within a few minutes of that time.

15 A. Yes.

16 Q. Is that fair to say? All right. Now
17 before you go into the room, I think you testified that,
18 you know, you were -- you were doing a lot of stuff,
19 talking to the D.A.'s office. Is that right?

20 A. I was talking to other co-defendants. We
21 had other witnesses there. And I was communicating with
22 the D.A.'s office.

23 Q. Uh-huh.

24 A. Speaking with other police and other
25 detectives.

1 Q. And at some point, you said, you testified
2 that you went home?

3 A. Correct.

4 Q. Got a shower?

5 A. Yes.

6 Q. Slept a little bit?

7 A. Yes.

8 Q. I'm assuming you ate something?

9 A. I don't believe I've -- I usually don't eat
10 in the middle of the night.

11 Q. Okay. Drank something?

12 A. Probably.

13 Q. Okay. So you come in the room at about
14 eight fifty-one or within a few minutes of that, and
15 that's when Mr. Jones was read his Miranda rights. Is
16 that correct?

17 A. I'm sorry, repeat that.

18 Q. That's when he was read his Miranda rights,
19 correct?

20 A. At eight fifty-one -- eight fifty-one,
21 eight fifty-two, yes.

22 Q. Okay. Now the entire interrogation took
23 approximately ninety minutes?

24 A. Yes.

25 Q. And both you and Detective Farley were in

1 that room with him at that time. Is that correct?

2 A. Correct.

3 Q. And you folks were seated in two seats
4 across from the Defendant, and -- is that right?

5 A. At -- most of the time, yes.

6 Q. Most of the time. And between you and the
7 Defendant -- between the Defendant and the door, you two
8 were seated in between that, correct?

9 A. I'm sorry, repeat that.

10 Q. I'm going to repeat that. So we have a --
11 so you folks are sitting there. Is that right?

12 A. Yes.

13 Q. For the most part? Correct?

14 A. Correct.

15 Q. All right. We'll talk about Officer Farley
16 moving around soon, but -- but for right now, there's --
17 there's Mr. Jones, correct?

18 A. Correct.

19 Q. And then you're seated at the table,
20 correct?

21 A. Correct.

22 Q. And then behind you is the door. Is that
23 right?

24 A. Behind me and to the right a little bit.

25 Q. Okay.

1 THE COURT: And Ms. Cinquanto, just for purposes
2 of the record, if you could just identify that for the
3 video that's being displayed, kind of what the timestamp
4 is as to what you're using as your example of where
5 they're seated.

6 MS. CINQUANTO: Your Honor, this is
7 approximately nine a.m.

8 THE COURT: Okay. Thank you.

9 MS. CINQUANTO: All right. Thank you.

10 BY MS. CINQUANTO: (Cont'g.)

11 Q. All right. So during the course of this
12 ninety-minute interrogation, there were numerous things
13 that you and Detective Farley conveyed to Mr. Jones,
14 correct?

15 A. We talked a while, yes.

16 Q. Okay. One of the things that you talked
17 about is the fact that he could be executed if he was
18 convicted of this homicide. Is that right?

19 A. Some type of conversation about that came
20 up.

21 Q. Well, specifically, you said he could be
22 executed if he was convicted of the homicide, but even at
23 that time, you knew that there was a moratorium of the
24 death penalty in Pennsylvania. You do -- you are aware of
25 that as a homicide detective, correct?

1 A. Yes. And then right after that, I told
2 him, but that's not going to happen.

3 Q. Right. So what you -- I think specifically
4 you said, and I quote, the jury will say, "We are going to
5 execute this guy, meaning you, but they don't do that
6 anymore in Pennsylvania. So we are going to give this guy
7 life." Do you remember saying that to him?

8 A. Something to that effect.

9 Q. Okay. But then a few minutes later,
10 approximately thirteen minutes later, you told Mr. Jones
11 that, "Technically under the law in Pennsylvania, you can
12 still get the debt -- death penalty." Do you remember
13 telling him that?

14 A. Yes.

15 Q. You also -- you and Detective Bartol also
16 had said to Mr. Jones things like, there's going to be --
17 after he's convicted, some other motherfucker is going to
18 raise your kid and sleep with your girl. Do you remember
19 that?

20 A. Yes.

21 Q. Do you remember also telling Mr. Jones that
22 after he's convicted, that he will have his -- the other
23 fucker will have -- his girlfriend will be licking the
24 other fucker, who's raising his kid's, dick. Do you
25 remember saying that?

1 A. Yes.

2 Q. All right. You also called Mr. Jones a
3 cold-blooded killer. Do you remember saying that?

4 A. I sure do. Yes.

5 Q. A fuck up?

6 A. Yes, I did.

7 Q. A loser?

8 A. I did.

9 Q. Too lazy. Fucking lazy to earn -- earn his
10 own living?

11 A. Yes.

12 Q. And not a real man?

13 A. Correct. Yes.

14 Q. Okay. Now during this time period, you
15 pretty much remain stationary, I believe. Well, actually,
16 I'm sorry. Who -- who is --

17 A. You got us mixed up.

18 Q. I apologize.

19 A. I'm -- I'm the one moving around. I'm on
20 the way.

21 Q. Okay. Okay. So during the -- during the
22 course of the -- of the interrogation, over the ninety
23 minutes, you do move closer to Mr. Jones. Is that right?

24 A. Yes.

25 Q. And you often move closer to him, you turn

1 your chair around and sometimes at times you're sitting
2 right next to him. Is that right?

3 A. Correct.

4 Q. And you're sitting within inches of him.
5 Is that right?

6 A. Yes, I am.

7 Q. Okay. And this would occur specifically
8 when Mr. Jones was giving you information that you felt
9 was not correct. Is that right?

10 A. No.

11 Q. All right. Well, is it true that on
12 approximately eight occasions during the ninety-minute
13 interview, you felt compelled to move your chair closer to
14 him and sit within a couple of inches of him?

15 A. I don't know what you mean by felt
16 compelled to, but I did move myself closer to him when I
17 was attempted to elicit information, and I thought I might
18 be able to get information at different points.

19 Q. Okay. So at the time when you were moving
20 closer to him, the goal was to get more information from
21 him. Is that right?

22 A. Well, the goal of any interview is to get
23 the truth, and that's what we were trying to get.

24 Q. And so you would move closer to him when
25 you felt that you wanted to get a statement from him that

1 was true versus the information he was providing to you,
2 which you felt was false?

3 A. Not necessarily.

4 Q. Okay. Now what Mr. Jones did tell you was
5 that, he was in the area of the Exxon station with his
6 girlfriend on the night in question, correct?

7 A. Yes.

8 Q. And that, in particular, he was -- he was
9 getting oral sex from his girlfriend. Is that right?

10 A. Yes.

11 Q. Specifically, he was getting his dick
12 licked, correct?

13 A. Yes, correct.

14 Q. Now you know that his girlfriend has now
15 been charged in this case, right?

16 A. I do.

17 Q. Okay. And she's now a co-defendant,
18 correct?

19 A. Correct.

20 Q. Now at about ten twenty-one, that
21 interrogation ends. Is that right?

22 A. I'm sorry, repeat that.

23 Q. Ten twenty-one a.m., the interrogation
24 ends?

25 A. Sometime around that, we stopped talking to

1 him, and then we came back and went over the summary with
2 him.

3 Q. Okay. So you -- so you and Detective
4 Farley leave the room, and for about approximately, I
5 believe it's about three minutes.

6 A. Correct.

7 Q. Is that fair to say? All right. And
8 during that time period, you were preparing the -- the
9 written summary?

10 A. Detective Farley prepared that.

11 Q. And that is the -- that is the statement
12 that Mr. Jones ended up signing, correct?

13 A. Correct.

14 Q. And when he signed the statement to you, he
15 -- he told you he was tired, correct?

16 A. I don't -- I don't -- I'll have to replay
17 that with the exact words that he was used. He said
18 something about he just woke up.

19 Q. He just woke up. So he indicated to you
20 that he was a little bit disoriented because he was tired
21 or had just woken up, correct?

22 A. But he didn't just wake up.

23 Q. I'm sorry?

24 A. I don't believe he just woke up.

25 Q. Well, that's not what I'm asking you. I'm

1 asking you what he told you.

2 A. He did say that, yes.

3 Q. Okay.

4 A. But that -- that -- that's not what
5 happened.

6 Q. Okay. I'm just asking you what he told
7 you, correct? So he did inform you that he had just woken
8 up and he was a little bit tired, correct?

9 A. We just played it. He did say when
10 Detective Farley asked him to sign it, he stretched a
11 little bit and said, oh, I'm tired, he said. We have to
12 replay that, but something to that effect.

13 Q. Okay. Now after the interrogation ends,
14 Mr. Jones remains in that interrogation room for six more
15 hours, right?

16 A. Correct.

17 Q. And during that time period, he urinated in
18 a cup. Is that right?

19 A. He did.

20 Q. All right. And that was because nobody
21 responded to his repeated request to go to the bathroom?

22 A. At some point, he knocked on the door and
23 somebody did not come there fast enough and he urinated in
24 the cup, yes.

25 Q. Well, in fact, I mean, he was banging on

1 the door, right? To have somebody let him out and take
2 him to the bathroom and he was not taken, correct?

3 A. Correct.

4 Q. All right. And then later on, he was
5 repeatedly asking for medical assistance. Is that
6 correct?

7 A. Yes. And that's when he was taken down to
8 be processed. The first part of the process after they
9 check you in is, send you right to the nurse.

10 Q. Well, specifically, he -- he asked to leave
11 the interrogation room two times. One was at one fifty
12 p.m. and one was at three ten p.m. because he was asking
13 for medical assistance on both of those occasions. Do you
14 recall that?

15 A. I don't know what your definition of asking
16 for medical assistance. He said that he wanted to leave.
17 Just take me downstairs and - to be processed, I believe.

18 Q. Well --

19 A. And then he asked for Tylenol or something.
20 He said he had a headache and I said when we took him
21 downstairs.

22 Q. Well, specifically at one fifty p.m. and
23 three ten p.m., he -- he says, I need a nurse or medicine
24 because he's not feeling well. Do you remember that?

25 A. He did not say that to me. I don't

1 believe.

2 Q. Well, he didn't say that to you. He was
3 banging on the door at one fifty p.m. and three ten p.m.
4 saying, I need a nurse or medicine, I'm not feeling well.
5 You weren't there. But do you re -- you -- you -- you've
6 watched this video, did you?

7 A. I did watch the video.

8 Q. Okay. So you are aware that at least on
9 two occasions he was asking for medical assistance?

10 A. I don't recall the exact wording or what
11 happened, but he did knock on the door and he was asking
12 to be taken downstairs when I was going to take him down.
13 He was asked -- and that was at three forty, I believe it
14 was or three forty-two.

15 Q. Uh-huh.

16 A. He did say that he had a headache and he
17 was asking for Tylenol or something.

18 Q. Okay.

19 A. And that's when he was brought down to the
20 nurse.

21 Q. So your testimony today is, when you
22 reviewed this video you don't recall Mr. Jones saying at
23 one fifty p.m. and then again at three ten p.m., I need a
24 nurse or I need medicine?

25 A. I don't remember the exact words. It's

1 almost twenty hours of video, but at some point, he did
2 say something about wanting to be brought down and that he
3 wanted some medicine because he had a headache.

4 Q. Okay. And then it was not until three
5 forty-two p.m. which is when he was taken out and he was
6 then given whatever medicine or Tylenol that he was given.
7 Is that right?

8 A. I don't know what he was given. We don't
9 administer any medication that he would be taken down to
10 the cell room down there and there's a nurse on duty that
11 would administer, if necessary, any medication.

12 Q. Okay.

13 MS. CINQUANTO: One moment, Your Honor. That's
14 all I have, Your Honor. Thank you.

15 THE COURT: Thank you, Ms. Cinquanto. Mr.
16 Parisi?

17 MR. PARISI: Briefly, Your Honor.

18 THE COURT: Yes.

19 RE-DIRECT EXAMINATION

20 BY MR. PARISI:

21 Q. Detective Bartol, you mentioned just a
22 minute ago you reviewed the video. Do you know what the
23 Defendant was doing from roughly twelve thirty a.m. until
24 seven thirty a.m. So I'm talking about the 25th.

25 A. He was sleeping on the floor all night.

1 Q. And during the -- the course of his time in
2 the interview room, do you know how many bathroom breaks
3 the Defendant received?

4 A. I believe it was at least five.

5 Q. Mr. Cinquanto asked you about moving closer
6 to the Defendant at various times during the interview.
7 Did you ever put your hands on him when you were
8 questioning him?

9 A. I did not.

10 Q. And then the -- the last question I have
11 for you about the request for medical assistance or the
12 Tylenol and -- and the Defendant urinating in a cup, did
13 that happen before or after you had completed your
14 interview with him?

15 A. Several hours after.

16 MR. PARISI: Nothing additional, Your Honor.

17 THE COURT: Thank you, Mr. Parisi. Ms.
18 Cinquanto?

19 MS. CINQUANTO: Just briefly, Your Honor.

20 THE COURT: Brief.

21 MS. CINQUANTO: All right. So --

22 THE COURT: And Ms. Cinquanto, if you could
23 restrain it to what was elicited on cross, so that we're
24 not going --

25 MS. CINQUANTO: Absolutely, Your Honor.

1 THE COURT: Thank you.

2 RE-CROSS EXAMINATION

3 BY MS. CINQUANTO:

4 Q. So Detective, he was laying on the ground
5 in the interrogation room. You don't know whether or not
6 he was sleeping?

7 A. He appeared to be sleeping. He turned
8 around and -- and moved around and appeared to be sleeping
9 on the ground.

10 Q. Well, you say he appeared to be sleeping,
11 but you don't know if he was sleeping, correct?

12 A. Looking at the video, it looked to me like
13 he was sleeping.

14 Q. Okay. But you can't see his eyes and his
15 clothes and he wasn't snoring or anything like that,
16 correct?

17 A. I couldn't see his eyes, no.

18 Q. Okay. Now also you -- you also testified
19 that he was given at least five-bathroom breaks.
20 Detective, are you sure about that?

21 A. If I can refer to my notes on that?

22 THE COURT: You may.

23 THE WITNESS: At ten thirty -- seven thirty a.m.
24 the next day. Ten twenty, one fifty, three ten. That's
25 -- I got at least five, yes.

1 BY MS. CINQUANTO: (Cont'g.)

2 Q. Okay. Well, I want to talk about how often
3 he was able to use the restroom before he signed the
4 statement. And that was at seven -- was it ten thirty,
5 the night before, correct?

6 A. Correct.

7 Q. At seven forty, the next morning, correct?

8 A. Correct.

9 Q. And then the statement was taken. Is that
10 right? The interrogation happened, correct?

11 A. Correct.

12 Q. And then he went to the bathroom for the
13 third time at ten twenty-one, correct?

14 A. Yes, correct.

15 Q. So the total times he was able to use the
16 bathroom prior to the time that the statement was taken
17 was twice, correct?

18 A. Well, I wouldn't frame it that way. He was
19 requested to use the bathroom. He could have used the
20 bathroom anytime that he requested. He requested to use
21 the bathroom two or three times before.

22 Q. Okay. I'm -- I'm -- I hear you. That's
23 fine, but my -- I'm just trying to be accurate here. So
24 prior to the time that the interrogation ended, right? He
25 went to the bathroom twice. He left that room twice. Is

1 that right?

2 A. Yes.

3 Q. Okay.

4 MS. CINQUANTO: One moment, Your Honor.

5 BY MS. CINQUANTO: (Cont'g.)

6 Q. And the interrogation ended approximately
7 fifteen hours after his initial arrest. He was arrested
8 at six p.m. and the interrogation ends at ten twenty a.m.?

9 A. Yeah, about fourteen --

10 Q. So it's about sixteen hours. Is that
11 correct?

12 A. Yeah, roughly. Yes.

13 Q. Okay.

14 MS. CINQUANTO: Thank you, Your Honor. I have
15 nothing further.

16 THE COURT: Thank you. And the Court will
17 correct itself. I said that to limit your questions to
18 cross. It was actually to the redirect of the Government.
19 Nothing further?

20 MR. PARISI: Nothing further for this witness,
21 and I have no additional evidence on this motion, Your
22 Honor.

23 THE COURT: Thank you very much, Mr. Parisi.
24 Detective, thank you very much.

25 THE WITNESS: Thank you.

1 THE COURT: You're welcome to stand down.

2 MS. CINQUANTO: Again, Your Honor, I would just
3 request that we be allowed to get the transcript, have
4 supplemental briefing, and if required, then have
5 argument.

6 THE COURT: And Ms. Cinquanto, I was going to
7 ask Mr. Parisi, there are no additional witnesses? You
8 said that --

9 MR. PARISI: Nothing, Your Honor.

10 THE COURT: Okay. I will take the Government's
11 previous argument as to its preference regarding arguments
12 on the motion and obviously, your response, Ms. Cinquanto
13 to that and carried over from the previous motion is
14 suppressed to this motion as well, and the Court will
15 issue the same ruling, which is that I will hear argument
16 today on the motion.

17 However, the argument will not be closed. I
18 will also permit counsel to have supplemental briefing and
19 file that with the Court after the oral argument for
20 today. And then we'll also schedule a date for additional
21 oral argument to be held and allow both counsel to provide
22 that to the Court at that later date, and then close
23 argument then and render my decision thereafter. So is
24 there anything further, Mr. Parisi, besides argument?

25 MR. PARISI: No, Your Honor.

1 THE COURT: Okay. You are welcome --

2 MR. PARISI: Thank you, Your Honor.

3 THE COURT: To present.

4 MR. PARISI: Your Honor, the -- the issue on
5 this -- this motion to suppress, I won't put words in Ms.
6 Cinquanto's mouth, but I -- I take from her -- her preface
7 of this that she's not contesting a voluntary waiver of
8 Miranda for this statement.

9 Nevertheless, I'd asked the Court to make a
10 finding that the Miranda waiver was voluntary.

11 THE COURT: Ms. -- Ms. Cinquanto, are you
12 contesting the -- the voluntariness of the waiver?

13 MS. CINQUANTO: Your Honor -- Your Honor, yes, I
14 am. I'm contesting the enti -- the voluntariness of the
15 entire proceeding. So yes, I am.

16 MR. PARISI: Okay. I'll address that as well,
17 Your Honor.

18 THE COURT: Thank you.

19 MR. PARISI: Your Honor, the Government's burden
20 to show that both the waiver of Miranda was voluntary as
21 well as the statement itself for both analysis, it's a
22 totality of the circumstances review. And the third
23 circuit tells us with the Miranda waiver that we look at
24 the Defendant's background, his experience, and his
25 conduct, including his criminal history, which is why I --

1 I both entered that stipulation of the Defendant's
2 extensive criminal history and also his prior Miranda
3 waiver with Detective Chavez, which was approximately four
4 months before this interview.

5 Under the totality of the circumstances, you saw
6 an alert adult male with extensive experience with
7 criminal -- with the criminal justice system, who was very
8 recently mirandized, received the warnings after the
9 detectives determined he was not under the influence, and
10 the Defendant very clearly said he understood those --
11 those warnings.

12 So turning to whether the statement was
13 voluntary or not, I want to first address the -- the
14 urinating in the cup and asking for medicine and all that.
15 That is totally irrelevant for today, because it all
16 happened after the statement.

17 It doesn't matter if the Defendant wants to sue
18 the police for having to pee in a cup, maybe that's
19 something he can do. But it's not something Your Honor
20 needs to concern yourself with, because it has no bearing
21 on whether or not the statement that was already taken was
22 voluntary.

23 What we do look at is, again, the totality of
24 the circumstances in 18 U.S.C. 3501 gives us some factors,
25 but the -- the critical analysis is, was there police

1 coercion, which is a necessary predicate, and was that
2 coercion so awful that it overcame the Defendant's will.

3 Dickinson, the Supreme Court decision, 530 U.S.
4 433 tells us that. Again, the similar factors, it's --
5 it's the length of the interrogation, the location, the
6 defense maturity, his education, his condition, and his
7 mental health that all comes out of swint, which is a
8 third circuit decision.

9 What we're talking about is a ninety-minute
10 interrogation, which is a brief interrogation conducted in
11 the Defendant's native language in, for the most part,
12 conversational tone. The Defendant importantly provided
13 no information after the detectives used stronger language
14 with him.

15 All of the information the Defendant provided
16 was during the conversational portion of this -- this
17 interview. Obviously, he didn't play the full thing, but
18 the Court has it in evidence. Within the first minute of
19 the interview, beginning, Detective Bartol satisfies all
20 of the 3501 factors by explaining why he's interviewing
21 him and reading him his Miranda warnings.

22 The Defendant's demeanor is calm throughout. He
23 never raises his voice. He never gets upset. He's not
24 crying. And I believe it's the third circuit case I cited
25 says that that is also a factor in favor of finding

1 voluntariness of a statement.

2 I cited a number of cases. I won't go over all
3 of them. But strong language is not enough for coercive
4 police conduct to raise -- rise to a level where it
5 overcomes the voluntariness. Bottom line is, the
6 Defendant had his faculties about him. He's an
7 experienced criminal.

8 He'd been through this exact scenario four
9 months before and waived it when he was interviewed.
10 Sure, he was in the interview room for hours beforehand,
11 but for the most part, he was sleeping. That's not enough
12 to -- to find coercive police conduct that overcomes his
13 will and renders this involuntary.

14 It was a voluntary statement. There's no
15 constitutional violation, and we'd ask you to deny the
16 motion.

17 THE COURT: Thank you, Counsel. Ms. Cinquanto,
18 do you wish to respond now? I obviously am giving the
19 ability to supplement this at a later date.

20 MS. CINQUANTO: Your Honor, I'm going to opt to
21 reserve argument and supplement with written brief, Your
22 Honor, if required.

23 THE COURT: Thank you, Ms. Cinquanto. Counsel,
24 I believe that would conclude the motions that were
25 presented to the Court today. Is there anything -- I'm

1 going to go over dates and kind of deadlines and things
2 that are necessary and get into those things in a moment.

3 I also know that the Government asks at the
4 conclusion of the previous motion to suppress that I make
5 the finding that the witnesses are credible, which I will
6 make that finding on the record now. And so is there
7 anything else before I get into, kind of dates and
8 reminding you of things that are needed that I need to
9 hear from either of you on before we conclude today. Mr.
10 Parisi?

11 MR. PARISI: Only that I provided your staff
12 with a drive containing the Government's exhibits that we
13 introduced today, Government's One through Seven. But
14 otherwise, I have nothing additional.

15 THE COURT: Thank you. And that has been
16 received by the Court and is appreciated and obviously
17 will be viewed by the Court following today's hearing as
18 the evidence that I will consider in these motions that
19 have been argued to the Court.

20 Ms. Cinquanto?

21 MS. CINQUANTO: Nothing from me, Your Honor.

22 THE COURT: Thank you. Counsel, what I've noted
23 from our discussions here today is that, the initial thing
24 I will ask of the Government, and it goes to, I believe,
25 the motion that was filed on E.C.F. One fifty-six. So

1 addressing the grand jury issue, I ask for the -- pause
2 for one second.

3 Thank you. Okay. So I'm going to again,
4 continue on from what I -- what we addressed first earlier
5 this morning. So the Court is going to provide direction
6 to counsel, insofar as E.C.F. One fifty-six, which is
7 addressing the request of defense, insofar as the grand
8 jury information is concerned, and I will provide you with
9 the Court's directive as to who needs to receive that
10 request, so that therefore, what is being requested is
11 being provided by the right entity and is being provided
12 within the scope of what is permitted as outlined by the
13 -- the plan that was referenced by the Government when Mr.
14 Parisi made his argument.

15 So I will take care of that. I am asking you
16 all to do the following. I have asked the Government, Mr.
17 Parisi, to provide an example of a jury instruction, and
18 this goes to the motion for severance of the charges of
19 count one from counts three, four, and five.

20 That addresses the specific issue of the
21 Government's argument as to Rule 14 and the unduly
22 prejudicial position that counsel has put forth on behalf
23 of our client, that if he is to testify on one count and
24 does not wish to testify on the other counts, how that has
25 been or could be addressed in a way that would ensure that

1 there was no undue prejudice as to the Defendant, if, in
2 fact, these cases remain together and the count to remain
3 joined.

4 So I will ask for the Government to provide that
5 example to the Court by 07/16/2024, a week from today's
6 date. I will permit the defense to respond to that by
7 07/23/2024.

8 MS. CINQUANTO: Yes, Your Honor. Thank you.

9 THE COURT: Okay. And I will also direct that
10 supplemental briefing insofar as the motions to suppress.
11 So that is for E.C.F. One thirty-five and for E.C.F. One
12 forty-three, that those supplemental briefings be filed by
13 the 29th July of 2024.

14 MS. CINQUANTO: Your Honor, would you -- I will
15 order the transcripts. Would Your Honor, I'm going to
16 order it expedited, which, if that's okay with Your Honor.

17 THE COURT: That is permis -- yes.

18 MS. CINQUANTO: Okay. Thank you.

19 THE COURT: I will grant that, yes. They can be
20 over expedited. In light of the timeframe, I'm -- I'm
21 keeping in consideration that the trial date that we have
22 already scheduled on the Court's docket, and the Court is
23 looking to make decisions on all of these motions before
24 the end of August.

25 Which is why the next date I'm offering to you

1 is August 20th, '24 at eleven a.m. is when I will schedule
2 oral argument. If counsel wishes to supplement their
3 initial argument or the -- or provide oral argument based
4 upon the submissions in the briefs, then it will be August
5 20th at eleven a.m.

6 Is that available to you, Ms. Cinquanto?

7 THE COURT: And is that available to you, Mr.
8 Parisi?

9 MR. PARISI: Yes, Your Honor.

10 THE COURT: Okay.

11 MS. CINQUANTO: I'm supposed to be on -- I -- I
12 can always move this if it's a problem with the Court.
13 I'm -- I'm supposed to be on a college tour with my son on
14 that day, but I am open on the 21st. And I am open on the
15 22nd and --

16 THE COURT: Let's look at the 21st. Mr. Parisi,
17 are you available on the 21st?

18 MR. PARISI: Yes, Your Honor. Yes, Your Honor,
19 I am available.

20 THE COURT: Okay. Then we will do the 21st, but
21 we will do it at ten a.m.

22 MS. CINQUANTO: Thank you, Your Honor.

23 THE COURT: Okay. So August 21 ten a.m. will be
24 the scheduling of the oral argument. And counsel, if you
25 don't feel that oral argument is necessary, then please

1 notify the Court at least five days prior and then we can
2 go ahead and release that date.

3 MS. CINQUANTO: Understood, Your Honor, thank
4 you.

5 THE COURT: Okay. I don't believe that there is
6 anything further in terms of dates and/or specific
7 notations or orders that I wanted to make for purposes of
8 the record. So if there is anything else outstanding, I'm
9 happy to hear from either of you.

10 Otherwise than that, I will adjourn court for
11 today. So Mr. Parisi, is there anything further?

12 MR. PARISI: No, Your Honor. Thank you.

13 THE COURT: Thank you very much. Yes, Ms.
14 Cinquanto?

15 MS. CINQUANTO: I'm so sorry, Your Honor.

16 THE COURT: No, that's okay.

17 MS. CINQUANTO: Your Honor, the trial on this
18 matter is scheduled about jury selections on the 12th of
19 September and then the trial is to start on September
20 16th. I'm going to be asking for continuance of the trial
21 date. I've already notified the Government that this
22 would be my intention until the beginning of January or
23 maybe the second week in January.

24 And this is the reason why. As Your Honor
25 knows, I needed to retain, and I've already told the

1 Government this. One of the -- the most important
2 evidence in this case is going to be the cell phone
3 evidence, phone calls, cell site location information.

4 And I needed to retain an expert. So because I
5 saw where this case was going, I had reached out to the
6 third circuit budgeting coordinator, Renee Edelman
7 (phonetic spelling), and she and I have been diligently
8 working on a budget for Your Honor, for at least six
9 weeks, and it was finally just approved.

10 I have identified, and this is just an expert to
11 help me, sort of, you know, sort of sift through all the
12 information, which is we're talking about a lot of cell
13 phones, a lot of communication, a lot of historical
14 (unintelligible) the people involved here.

15 It's going to take me some time to -- to do
16 that. So I'm going to be asking for a continuance of the
17 trial. I don't think that pushing it into January is --
18 is onerous. And of course, that's up to Your Honor. I've
19 spoken with Mr. Jones. He completely understands the
20 situation. He agrees that a continuance of -- of the
21 trial would be helpful to the defense, if not necessary,
22 frankly.

23 In the meantime, these motions will be decided
24 and based upon the information we get back, we can decide
25 different routes to go.

1 THE COURT: Thank you, Ms. Cinquanto.

2 MS. CINQUANTO: If that make sense to you, Your
3 Honor. And --

4 THE COURT: I -- I appreciate. No, go ahead,
5 I'm --

6 MS. CINQUANTO: Oh.

7 THE COURT: -- I -- I want to let you finish.

8 MS. CINQUANTO: Oh, in addition, Your Honor, we
9 also, I believe at some point, and thank you so much for
10 taking the labor and figuring out who I have -- who we
11 have to talk to about --

12 THE COURT: Uh-huh.

13 MS. CINQUANTO: -- this grand jury stuff. But
14 once we do get the grand jury information, which I believe
15 all are entitled to get. It's going to take some time to
16 sort of sift through that and see if there's any merit to
17 that -- to that motion, or if any motion should be filed.

18 So I think a mid-January date would -- would
19 work for the defense. I -- I believe it works for the
20 Government as long as it works for Your Honor.

21 THE COURT: Okay. I would like to hear from the
22 Government and -- and -- in doing, I would like to hear
23 from the Government. Then I will also potentially want to
24 hear from Mr. Jones or to make sure that the -- if
25 granted, that the waiver of speedy trial is not an issue.

1 But based upon your representation, Ms. Cinquanto, I -- I
2 believe that that would be presumptively agreed upon by
3 your client.

4 But before doing so, Mr. Parisi?

5 MR. PARISI: Yes, Your Honor. Ms. Cinquanto
6 mentioned the -- the basis for this to me, I believe
7 yesterday. Under the circumstances, I think I'm -- I'm
8 hard pressed to object. I think I -- I would have -- have
9 no objection to a continuance to make sure that she has
10 the time to consult with her expert.

11 But I would just want an opportunity to consult
12 with counsel and with the Court on the new date, which
13 would hopefully be the final date. And given the number
14 of witnesses, I'd be aiming to maybe move us a little bit
15 out from the holidays, just to make sure we have everybody
16 ready to go.

17 THE COURT: That all sounds reasonable, Mr.
18 Parisi. And I think that based upon what both you and Ms.
19 Cinquanto have presented and knowing the thoroughness of
20 your -- of your advocacy and your respective positions, I
21 think it seems prudent and appropriate to do what Ms.
22 Cinquanto is requesting, and for you to have the
23 opportunity, Mr. Parisi, to consult with counsel and then
24 to make a determination on what works well for what will
25 be a number of witnesses and the number of individuals who

1 will need to make themselves available for what I will
2 identify as whatever date is given would be the final
3 date.

4 And that barring some extenuating circumstances,
5 there would be no further continuances. With that being
6 said, knowing that the continuance date will be granted.
7 I -- I won't set the date now unless you want me to, I
8 would allow you both to consult and consult with
9 witnesses. I feel like it is premature to set the date.

10 So I will wait to receive from you what date is
11 convenient, and then I will look to issue an order
12 granting the continuance. Then however, I will ask at
13 this point just to make sure that the Defendant does
14 indicate his waiver on the record to the continuance
15 request and that he is waiving speedy trials.

16 So I will ask for the Defendant to be sworn, so
17 that we can get that waiver on the record, so that that is
18 something that does not need to be taken care of in
19 writing at a later date.

20 COURT CLERK: Please stand and raise your right
21 hand. You do swear or affirm that the testimony you shall
22 give to the Court should be the truth, the whole truth and
23 nothing but the truth, so help you God, or you do so
24 affirm?

25 MR. JONES: I do, Sir.

1 WITNESS; CHIHEAN JONES; Sworn

2 THE COURT: Thank you. Remain standing. Mr.
3 Jones, you have heard that your attorney, Ms. Cinquanto
4 has indicated that it would be your best interest in
5 preparation for your defense for your case to be continued
6 from the current scheduled trial date, which is September
7 the 12th to a date that is to be determined, but sometime
8 in January.

9 She has made this motion based upon the evidence
10 that she anticipates receiving, as well as mitigation
11 information that she is also looking to acquire as well.
12 Do you have any objection to that? And -- and if so, let
13 me know. And if you don't, then do you waive the speedy
14 trial?

15 So do you have any opposition to what your
16 counsel has requested?

17 THE WITNESS: No, Your Honor.

18 THE COURT: Do you agree that it is in your best
19 interest for the case to be continued, so that Ms.
20 Cinquanto can prepare your defense?

21 THE WITNESS: Yes, Your Honor.

22 THE COURT: Okay. And so you do waive any
23 speedy trial considerations that would be normally
24 attached to a case if, in fact, you did not agree to
25 continue. Do you waive speedy trial? Do you waive speedy

1 trial?

2 THE WITNESS: Yes. Yes.

3 THE COURT: And I'll explain to you what that
4 means. That means that you do not oppose or object to the
5 continuance of the case that you are not going to say at a
6 later date I didn't agree with this, and therefore you
7 violated my speedy trial rights by continuing this case
8 out, understanding the basis why your attorney is asking
9 for it.

10 So when I ask for a waiver, it's a bit of a
11 tricky word, but it means that you are not going to, at a
12 later point in time, come back to the Court and say, I
13 didn't agree to that. So in fact, you do agree to the
14 continuance. Am I correct?

15 THE WITNESS: Yes.

16 THE COURT: Yes. All right. Counsel, anything
17 further?

18 MS. CINQUANTO: Yes, Your Honor. Your Honor,
19 Mr. Jones is concerned, and I told him I would raise this
20 issue. And this is -- this is on me. Mr. Jones, when he
21 was in state custody, had received some discovery.
22 Apparently that discovery differs from, or there is some
23 -- some -- there's some things that are not included in
24 the discovery that I received from the Government.

25 What I would like to do is, I'm not -- the

1 Government's been very, very good about providing the
2 discovery, giving a copy over to the Defendant at the
3 F.T.C. What I need to do is, I need to go with Mr. Jones
4 and really drill down on what he says is missing and make
5 sure it is missing, and then make sure that there's no
6 reason why the government wouldn't turn over.

7 Like for example, perhaps they turned over a
8 Jenck's statement in the state. That is not to be turned
9 over now until right before trial. So this is on me.
10 This is a discovery issue on me. And I just wanted to let
11 Mr. Jones know that I'm raising it, that he is telling me
12 there's things that are missing.

13 But before I make that representation, I just
14 need to drill down a little bit more on that issue. Is
15 that fair, Mr. Jones?

16 THE WITNESS: Okay.

17 THE COURT: Talk to your -- talk to your
18 attorney first.

19 MS. CINQUANTO: So -- so this is -- this is the,
20 we've (unintelligible) Mr. Jones about this. So
21 apparently, when he was charged in the state, he was given
22 -- he was given some discovery. When he was transferred
23 over to the federal system, that discovery did not come
24 with him.

25 I don't know what's in that discovery. I

1 contacted C.F.C.F. where he was detained and they don't
2 have a copy. No one has a copy. The Government and also
3 said they don't have a copy. And I believe -- I believe
4 that.

5 So the point is is that, I have to figure out
6 what he's -- he saw that we don't have and then I have to
7 figure out why we don't have it and if we don't have it
8 and that type of thing. So I just wanted him to know that
9 I'm addressing this issue.

10 Okay. Okay. So in any -- in any event, Your
11 Honor, if I could just -- we'll figure that piece out, but
12 I wanted Mr. Jones to know that I'm addressing that issue.
13 Does that make sense, Mr. Jones?

14 THE WITNESS: Yes.

15 MS. CINQUANTO: Okay. All right. Thank you.

16 THE COURT: Okay. Mr. Parisi, you have a
17 response?

18 MR. PARISI: Yes. Ms. Cinquanto has mentioned
19 this to me in the past. I don't know what the discrepancy
20 is. I suspect it is witness' statements. He's not
21 entitled to them in the federal system. I'll remind --
22 the Court knows there is protective order as well,
23 restricting the Defendant's access.

24 To avoid a file by file and a letter by letter
25 review of what he does or does not have, what it may

1 already be done. I'm waiting. But I've asked our lit
2 support team to burn a complete set, once again, of the
3 discovery material that the Defendant is entitled to have
4 at this stage. And I'm going to prevent -- provide --
5 excuse me.

6 I'm going to provide that to him at the F.D.C.
7 That should occur this week, if not today.

8 THE COURT: Okay. And that set that you are
9 providing, is this something that you have already
10 previously provided to counsel?

11 MR. PARISI: It is. All the material that's
12 previously been provided.

13 THE COURT: Okay.

14 MR. PARISI: But rather than worry about does he
15 have this report or that report, I am -- I'm burning a
16 complete set once again, and I'll make sure that gets to
17 the F.D.C., so he will have everything that Ms. Cinquanto
18 has. What he doesn't have, obviously, is Jencks' material
19 that will be provided later.

20 THE COURT: Okay. And for the purposes of you,
21 Mr. Jones, because I know in this conversation you're
22 talking with your lawyer, you're hearing from what the
23 Government is saying. And what your lawyer has done per
24 your request, it sounds like from conversations that you
25 both have had is make me aware that this is something that

1 she is working on, which is exactly what she should do.

2 So while there may be information materials that
3 you may have received or seen previously that you
4 remember, you're like, I remember this and I'm not seeing
5 it now, is maybe what I'm -- I'm guessing you were looking
6 at those because you are now in the federal court as
7 opposed to state court.

8 Certain information may not be available at the
9 time that you would have expected it to be available. And
10 Ms. Cinquanto is going to talk about that with you after
11 the Government is -- is saying we're going to actually
12 reissue that information again.

13 Everything you're entitled to now, you're going
14 to get. It may not match up with what you've seen before.
15 Ms. Cinquanto is going to ask you what those things are.
16 She's going to take those particular things and either
17 explain to you why you are not entitled to them yet, or
18 what those circumstances may be surrounding that
19 particular document, or, you know, statements or whatever
20 it is, and then she will explain it to you.

21 And if it's something that you are entitled to,
22 she'll do just what she did today, which is make a motion.
23 If she cannot resolve it with the Government
24 independently, bring it to my attention, and then I will
25 go ahead and make a decision on that. Okay? You

1 understand?

2 THE WITNESS: Yes.

3 THE COURT: Great. Anything further?

4 MR. PARISI: No, Your Honor.

5 THE COURT: All right.

6 MS. CINQUANTO: Nothing from the Defense, Your
7 Honor. Thank you.

8 THE COURT: All right. Okay. With that,
9 Counsel, thank you very much. As I stated, for very, very
10 good arguments and presentation today of all the evidence.
11 Court will stand adjourn for today and there's no further
12 business.


13 COURT CLERK: All rise.

14 (Off the record.)

15 (The hearing concluded at 1:55 p.m.)

16 CERTIFICATION

17 I, Judith Spriggs, court approved transcriber, certify that
18 the foregoing is a correct transcription from the official
19 electronic sound recording of the proceeding in the above-
20 entitled matter.

21 
22 _____/

Judith Spriggs
23 Associated Reporters Int'l., Inc. 17th day of August, 2024

24

25

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